THE CODE OF CRIMINAL PROCEDURE, 1898
(ACT V OF 1898).

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THE CODE OF CRIMINAL PROCEDURE, 1898
(ACT No. V OF 1898).[1]

[*22nd March 1898*]

Amended by Act 12 of 1899.
,, ,, ,, 4 of 1900.
,, ,, ,, 6 of 1900.
,, ,, ,, 1 of 1903.
,, ,, ,, 4 of 1909.
,, ,, ,, 4 of 1912.
,, ,, ,, 8 of 1913.
,, ,, ,, 10 of 1914.
,, ,, ,, 13 of 1916.
,, ,, ,, 18 of 1919.
,, ,, ,, 38 of 1920.
,, ,, ,, 14 of 1922.
,, ,, ,, 11 of 1923.
,, ,, ,, 12 of 1923.

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1897, Pt. V, p. 363; for Report of the Select Committee, *see ibid.*, 1898, Pt. V, p. 19; and for Proceedings in Council, *see ibid.*, 1897, Pt. VI, pp. 238 and 254; and *ibid.*, 1898, pp. 22, 101 and 175.

The Act has been amended in its application to—

Bengal by Bengal Act 7 of 1944; West Bengal by West Bengal Act 3 of 1948;

the C. P. by C. P. Act 19 of 1936 and C. P. and Berar by C. P. and Berar Act 20 of 1948;

Orissa by Regulation 4 of 1937;

the Punjab by Punjab Acts I of 1936, II of 1940 and 2 of 1947;

the East Punjab by East Punjab Act 5 of 1949; and

the U. P. by U. P. Acts 6 of 1938, 9 of 1940 and 36 of 1948.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941), and has been declared to be in force in—

Sonthal Parganas (with modifications), under the Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3 and Sch. [as to the modifications, *see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 4];

Panth Piploda, by the Panth Piploda Laws Regulation, 1929 (1 of 1929), s. 2 and Schedule;

Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Schedule; and

Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Schedule.

It has been declared to be in force, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (14 of 1874), in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 306, and *Gazette of India*, 1898, Pt. I, p. 869; and by notification under the same section and section 5A in the following other Scheduled Districts, namely, the Districts of Hazaribagh, Lohardaga (now the Ranchi District—*see Calcutta Gazette*, 1899, Pt. I, p. 44). Manbhum and Palamau and in Pargana Dhalbhum and the Kolhan in the Singhbhum District—*See Calcutta Gazette*, 1898, Pt. I, p. 714, and *Gazette of India*, 1899, Pt. I, p. 779.

As to its application in the Andaman and Nicobar Islands, *see* the Andaman and Nicobar Islands Regulation (3 of 1876), s. 13, and the Andaman and Nicobar Islands Regulation, 1884 (1 of 1884), s. 3.

It has ceased to be in force, by notification under section 2 of the Assam Frontier Tracts Regulation, 1880 (2 of 1880), in the Garo Hills, the Khasi and Jaintia Hills, the Naga Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hill Tracts in the Nowgong District, the Dibrugarh Frontier Tracts in the Lakhimpur District, and the Lushai Hills—*See Assam Gazette*, 1898, Pt. II, p. 788.

Amended by Act 18 of 1923.
" " " 35 of 1923.
" " " 37 of 1923.
" " " 7 of 1924.
" " " 18 of 1924.
" " " 8 of 1925.
" " " 23 of 1925.
" " " 29 of 1925.
" " " 32 of 1925.
" " " 37 of 1925.
" " " 2 of 1926.
" " " 10 of 1926.
" " " 34 of 1926.
" " " 36 of 1926.
" " " 10 of 1927.
" " " 12 of 1927.
" " " 25 of 1927.
" " " 1 of 1931.
" " " 21 of 1932.
" " " 24 of 1934.
" " " 35 of 1934.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Act 22 of 1939.
" " " 35 of 1940.
" " " 14 of 1941.
" " " 15 of 1941.
" " " 25 of 1942.
" " " 26 of 1943.
" " " 27 of 1943.
" " " 28 of 1943.
" " Ordinance 48 of 1944.
" " Act 2 of 1945.
" " " 6 of 1945.
" " " 3 of 1946.
" " " 4 of 1946.
Adapted and modified by the Indian (Adaptation of Existing Indian Laws) Order, 1947.
Adapted and modified by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
Amended by Ordinance 32 of 1948.
" " Act 9 of 1949.
" " " 15 of 1949.
" " " 17 of 1949.
" " " 42 of 1949.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Act 35 of 1950.
" " " 1 of 1951.
" " " 24 of 1951.
" " " 43 of 1951.
" " " 23 of 1952.
" " " 46 of 1952.
" " " 64 of 1952.
" " " 26 of 1955.
" " Bom. 29 of 1935.
" " " 30 of 1946.
" " " 32 of 1948.
" " " 46 of 1948.
" " " 78 of 1948.
" " " 20 of 1951.
" " " 22 of 1951.
" " " 23 of 1951.
" " " 39 of 1951.
" " " 6 of 1952.
" " " 34 of 1953.
" " " 8 of 1954.
" " " 21 of 1954.
" " " 71 of 1954.
" " " 39 of 1955.

N.B.—WHERE ANY SECTIONS ARE PRINTED IN PARALLEL COLUMNS, THE FIRST COLUMN SHOWS THE SECTIONS AS AMENDED BY CENTRAL ACTS AND THE SECOND COLUMN SHOWS THE SECTIONS AS FURTHER AMENDED BY BOMBAY ACTS.

An Act to consolidate and amend the law relating to the Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure;

It is hereby enacted as follows:—

PART I.

PRELIMINARY.

CHAPTER I.

Short title Commencement. Extent.

1. (*1*) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July 1898.

(*2*) It extends to the whole of India except the States of Jammu and Kashmir and Manipur; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of

Extent.

(*2*) It extends to [1] [the whole of India except the States of Jammu and Kashmir and Manipur]; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure

[1] The words "the whole of British India" have been successively substituted by the A. O. 1948, A. O. 1950 and the Code of Criminal Procedure (Amendment) Act, 1951 (I of 1951), to read as above.

procedure prescribed, by any other law for the time being in force, or shall apply to—

(*a*) the Commissioners of Police in the towns of Calcutta, Madras and Bombay or the police in the towns of Calcutta and Bombay;

(*b*) heads of villages in the State of Madras; or

(*c*) village police-officers in the State of Bombay:

Provided that the State Government may, if it thinks fit, by notification in the Official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

prescribed, by any other law for the time being in force, or shall apply to—

(*a*) the Commissioners of Police in the [1][*towns of Calcutta and Madras*] or the police in the [2][*town of Calcutta*];

(*b*) heads of villages in the [3][State of Madras]; or

(*c*) village police-officers in the [4][State of Bombay]:

Provided that the [5][[6][State] Government] may, if it thinks fit, [7]* * * by notification in the Official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. [*Repeal of enactments, notifications, etc., under repealed Acts. Pending cases.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914).*

References to Code of Criminal Procedure and other repealed enactments.

3. (*1*) In every enactment passed before this Code comes into force in which reference is made to or to any chapter or section of the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882 or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

Expressions in former Acts.

(*2*) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge".

Definitions.

4. (*1*) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

"Advocate General."

(*a*) "Advocate General" includes also a Government Advocate or where there is no Advocate General or Government Advocate, such officer as the [5][[6][State] Government] may, from time to time, appoint in this behalf;

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[1] These words were substituted for the words "towns of Calcutta, Madras and Bombay" by Bom. 22 of 1951, s. 167 (*3*), Sch. III.

[2] These words were substituted for the words "towns of Calcutta and Bombay", *ibid.*

[3] Substituted by Act 1 of 1951, s. 3, for "Presidency of Fort St. George".

[4] Substituted by s. 3, *ibid*, for "Presidency of Bombay".

[5] Substituted by the A. O. 1937 for "L. G.".

[6] Substituted by the A. O. 1950 for "Provincial".

[7] The words "with the sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

(*b*) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence; "Bailable offence." "Non-bailable offenc .

(*c*) "charge" includes any head of charge when the charge contains more heads than one; "Charge."

[1]* * * * * * *

(*e*) [2]["Clerk of the State"] includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the [2][Clerk of the State]; "Clerk of the State."

(*f*) "cognizable offence" means an offence for, and "cognizable case" means a case in which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant; "Cognizable offence." "Cognizable case."

(*g*) "Commissioner of Police" includes a Deputy Commissioner of Police; "Commissioner of Police."

(*h*) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police officer; "Complaint."

[3]* * * * * * *

[4][(*i*) "High Court", in relation to the Andaman and Nicobar Islands, means the High Court in Calcutta, and, in relation to any other local area, means the highest court of criminal appeal for that area (other than the Supreme Court) or, where no such court is established under any law for the time being in force, such officer as the State Government may appoint in this behalf; "High Court."

(*j*) "India" means the territories to which this Code extends]; "India."

(*k*) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court; "Inquiry."

(*l*) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf; "Investigation."

(*m*) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath; "Judicial proceeding."

(*n*) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in which a police-officer, within or without a presidency-town, may not arrest without warrant; "Non-cognizable offence." "Non-cognziable case."

(*o*) "Offence" means any act or omission made punishable by any law for the time being in force; "Offence."

it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871; I of 1871.

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[1] Clause (*d*) rep. by the Repealing and Amending Act, 1923 (11 of 1923), s. 3 and Sch. II.

[2] Substituted by the A. O. 1950 for "Clerk of the Crown".

[3] The former clause (*i*) was rep. by the Criminal Law (Removal of Racial Discrimination) Act, 1949 (17 of 1949), s. 3 (from the 6th April 1949).

[4] Substituted by Act I of 1951, s. 4, for the original clause (*j*).

"Officer in charge of a police-station."

(*p*) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the [1][[2][State] Government] so directs, any other Police officer so present;

"Place."

(*q*) "place" includes also a house, building, tent and vessel;

"Pleader."

(*r*) "pleader" used with reference to any proceeding in any Court, means a pleader [3][or a mukhtar] authorised under any law [4]for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any [5]* * * other person appointed with the permission of the Court to act in such proceeding;

"Police-station."

(*s*) "police-station" means any post or place declared, generally or specially by the [1][[2][State] Government] to be a police-station, and includes any local area specified by the [1][[2][State] Government] in this behalf;

"Public Prosecutor."

(*t*) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of [6][Government] in any High Court in the exercise of its original criminal jurisdiction;

[7]* * * * * * * *

"Sub-division."

(*u*) "sub-division" means a sub-division of a district;

"Summons-case."

(*v*) "summons-case" means a case relating to an offence, and not being a warrant-case; and

"Warrant-case."

(*w*) "warrant-case" means a case relating to an offence punishable with death; [8][imprisonment for life or imprisonment for a term exceeding one year].

Words referring to acts.

(*2*) Words which refer to acts done, extend also to illegal omissions; and

Words to have same meaning as in Indian Penal Code.

all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. XLV of 1860.

Trial of offences under Penal Code.

5. (*1*) All offences under the Indian Penal Code shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained. XLV of 1860.

Trial of offences agaist other laws.

(*2*) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

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1 Substituted by the A. O. 1937 for "L. G.".
2 Substituted by the A. O. 1950 for "Provincial".
3 Inserted by the Code of Criminal Procedure (Further Amendment) Act, 1923 (35 of 1923), s. 2.
4 *See* the Legal Practitioners Act, 1846 (1 of 1846); the Legal Practitioners Act, 1853 (20 of 1853); the Legal Practitioners Act, 1879 (18 of 1879); the Legal Practitioners Act, 1884 (9 of 1884); and the Legal Practitioners (Amendment) Act, 1908 (1 of 1908).
5 The words "mukhtar of" rep. by Act 35 of 1923, s. 2.
6 Substituted by the A. O. 1950 for "Her Majesty".
7 Clause (*tt*) which was inserted by the A. O. 1950 was omitted by Act 1 of 1951, s. 4.
8 Substituted by Act 26 of 1955, s. 2, for "transportation or imprisonment for a term exceeding six months"

PART II.

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

A.—Classes of Criminal Courts.

Classes of Criminal Courts.

6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in India, namely :—

I. Courts of Session :
II. Presidency Magistrates :
III. Magistrates of the first class :
IV. Magistrates of the second class :
V. Magistrates of the third class.

Classes of Criminal Courts.

[1][**6.** *Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in the State of Bombay, namely :—*

I. *Courts of Session.*
II. *Courts of Magistrates.*]

[2][*A-1.—Classes of Magistrates.*

Classes of Magistrates.

6-A. *There shall be the following classes of Magistrates, namely :—*

I. Judicial Magistrates.

(1) Presidency Magistrates.
(2) Magistrates of the first class.
(3) Magistrates of the second class.
(4) Magistrates of the third class.
(5) Special Judicial Magistrates.

II. Executive Magistrates.

(1) District Magistrates.
(2) Sub-Divisional Magistrates.
(3) Taluka Magistrates.
(4) Presidency Magistrates specially empowered by the State Government.
(5) Special Executive Magistrates.]

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for the original s. 6.
[2] This heading and s. 6A were inserted, *ibid.*

Sessions divisions and districts.

7. (*1*) Every State (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district, or consist of districts.

Power to alter divisions and districts.

(*2*) The State Governments may alter the limits or the number of such divisions and districts.

Existing divisions and districts maintained till altered.

(*3*) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

Presidency-towns to be deemed districts.

(*4*) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

Power to divide districts into Sub-divisions.

8. (*1*) The State Government may divide any district outside the presidency-towns into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division.

Existing sub-divisions maintained.

(*2*) All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

C.—Courts and Offices outside the presidency-towns.

Court of Session.

9. (*1*) The State Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court.

Sessions divisions and districts.

[1][**7.** (*1*) *The State of Bombay shall consist of Sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district or consist of districts.*

(*2*) *For the purposes of this Code, Greater Bombay shall be a sessions division and be deemed to be a district.*

(*3*) *The State Government may alter the limits or the number of such divisions and districts.*

(*4*) *The sessions divisions and districts existing when the Bombay Separation of Judicial and Executive Functions Act, 1951, comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.* Bom. XXIII of 1951.

Power to divide districts into Sub-divisions.

8. (*1*) The [2][[3][State] Government] may divide any district [4][*outside Greater Bombay*] into sub-divisions, or make any portion of any such district a sub-division and may alter the limits of any sub-division.

[5][*C.—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay.*]

Court of session.

9. (*1*) The [2][[3][State] Government] shall establish a Court of Session for every sessions division and [6][*in consultation with the High Court*] appoint a judge of such Court:

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for the original s. 7.
[2] Substituted by the A. O. 1937 for "L. G.".
[3] Substituted by the A. O. 1950 for "Provincial".
[4] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "outside the presidency-towns."
[5] Substituted by Bom. 32 of 1948, s. 3, for the original heading "C.—Courts and Offices outside the Presidency-towns".
[6] Inserted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[1][(2) The State Government may, by general or special order in the Official Gazette, direct at what place or places the Court of Session shall ordinarily hold its sitting; but if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sitting at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.]

(3) The State Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(3) The [2][[3][State] Government] may also [4][*in consultation with the High Court*] appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(4) A Sessions Judge of one sessions division may be appointed by the State Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the State Government may direct.

(4) A Sessions Judge of one sessions division may [4][*in consultation with the High Court*] be appointed by the [2][[3][State] Government] to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the [2][[3][State] Government] may direct.

(5) All Courts of Sessions existing when this Code comes into force shall be deemed to have been established under this Act.

10. (1) In every district outside the presidency-towns the State Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate. **District Magistrate.**

(2) The State Government may appoint any Magistrate of the first class to be an Additional District Magistrate and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under

10. (1) In every district [5][*outside Greater Bombay*] the [2][[3][State] Government] shall appoint a [6] * * * District Magistrate. **District Magistrate.**

(2) The [2][[3][State] Government] may appoint [7] * * * * [8][one or more Additional District Magistrates] [9] * * * * * and [10][an Additional District Magistrate] shall have all or any of the powers o a District Magistrate under this

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[1] Substituted by Act 26 of 1955, s. 3, for the original sub-section (2).
[2] Substituted by the A. O. 1937 for "L. G."
[3] Substituted by the A. O. 1950 for "Provincial".
[4] Inserted by Bom. 23 of 1951, s. 2 and Schedule Part I.
[5] Substituted, *ibid*, for "outside the Presidency towns".
[6] The words "Magistrate of the first class, who shall be called the" were deleted, *ibid*.
[7] The words "any Magistrate of the first class to be" were deleted, *ibid*.
[8] Substituted by Bom. 8 of 1954, s. 2 and Schedule Part I, for "an additional District Magistrate".
[9] The words "for a period not exceeding six months" were repealed by Act 18 of 1923, s. 2.
[10] Substituted by Bom. 8 of 1954, s. 2 and Schedule Part I, for "such Additional District Magistrate."

any other law for the time being in force, as the State Government may direct.

Code [1][or under any other law for the time being in force,] as the [2][[3][State] Government] may direct.

[4][(2A) For the purposes of sub-section (3) of section 528, such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate].

(3) For the purposes of sections 192, sub-section (1), 407, sub-section (2) and 528, sub-sections (2) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.

[5][(3) For the purposes of sub-section (3) of section 192, section 406B and sub-section (3A) of section 528, an Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.]

Officers temporarily succeeding to vacancies in office of District Magistrate.

11. Whenever in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the [2][[3][State] Government], exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

12. (1) The State Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the State Government or the District Magistrate, subject to the control of the State Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

[6][*Judicial Magistrates.*]

12. (1) The [2][[3][State] [Government] may appoint as many persons as it thinks fit [7] * * * * * to be Magistrates of the first, second or third class in any district [8][*outside Greater Bombay*] and [9] * * * [10][*the* Sessions *Judge, subject to the control of the High Court, may, from time to time*] define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

[11][(1-A) *The power of appointment of Magistrates under sub-section (1) shall, on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification.*]

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[1] Inserted by Act 18 of 1923, s. 2.
[2] Substituted by the A. O. 1937 for "L. G.".
[3] Substituted by the A. O. 1950 for "Provincial".
[4] Sub-section (2A) was inserted by Bom. 21 of 1954, s. 3 and Second Schedule.
[5] Sub-section (3) was inserted by Bom. 8 of 1954, s. 2 and Schedule Part I.
[6] Substituted, *ibid*, for the original marginal note.
[7] The words "besides the District Magistrate" were deleted, *ibid*.
[8] Substituted, *ibid*, for "outside the Presidency-towns."
[9] The words "the State Government or the District Magistrate, subject to the control of the State Government" were deleted, *ibid*.
[10] Substituted by Bom. 34 of 1953, s. 2, for "may, from time to time".
[11] Sub-section (1-A) was inserted by Bom. 23 of 1951, s, 2. and Schedule Part. I.

(*2*) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district. Local limits of their jurisdiction.

13. (*1*) The State Government may place any Magistrate of the first or second class in charge of a sub-division and relieve him of the charge as occasion requires. Power to put Magistrate in charge of sub-division.

(*2*) Such Magistrates shall be called Sub-divisional Magistrates.

(*3*) The State Government may delegate its powers under this section to the District Magistrate. Delegation of powers to District Magistrate.

14. (*1*) The State Government may confer upon any person who holds or has held any judicial post under the Union or a State or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf by the State Government by notification in the *Official Gazette* all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second, or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns. Special Magistrates.

(*2*) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the State Government may by general or special order direct.

[1][**13.** (*1*) *The State Government may appoint as many persons as it thinks fit to be Sub-Divisional Magistrates and Taluka Magistrates in any district outside Greater Bombay.* *Appointment of Sub-Divisional Magistrates and Taluka Magistrates and their jurisdiction.*

(*2*) *The State Government or, subject to the control of the State Government, the District Magistrate, may place,—*

(*i*) [2][*one or more Sub-Divisional Magistrates*] *in charge of a sub-division, and*

(*ii*) [3][*one or more Taluka Magistrates*] *in charge of a taluka or mahal.*]

[4][**14.** (*1*) *The State Government may, in consultation with the High Court, confer upon any person who holds or has held any judicial post under the Union or a State, or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf by the State Government by notification in the* Official Gazette *all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or classes of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may, in consultation with the High Court, by general or special order, direct.* *Special Magistrates.*

(*2*) *The State Government may also appoint Executive Magistrates for particular areas or for the performance of particular functions and confer upon them such powers as it deems fit. Such Magistrates shall be called Special Executive*

[1] Substituted by Bom. 34 of 1953, s. 3, for the original s. 13.
[2] Substituted by Bom. 8 of 1954, s. 2 and Schedule Part I, for "any Sub-Divisional Magistrate".
[3] Substituted, *ibid*, for "any Taluka Magistrate".
[4] Substituted by Bom. 39 of 1955, s. 2, for the original s. 14.

(*3*) The State Government may delegate, with such limitations as it thinks fit, to any officer under its control, the powers conferred by sub-section (*1*).

(*4*) No powers shall be conferred under this section on any police officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime, and detecting, apprehending, and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

Magistrates and shall be appointed for such term as the State Government may, by general or special order, direct:

Provided that no powers shall be conferred under this sub-section on any police officer below the grade of Assitant Superintendent and no power shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

(3) The State Government may delegate, with such limitations as it may think fit, to any other officer under its control the powers conferred by sub-section (2).]

Benches of Magistrates.

15. (*1*) The State Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits as the State Government thinks fit.

Benches of Magistrates.

15. (*1*) [1][*The State Government may, in consultation with the High Court, direct any two or more Judicial Magistrates in any place outside Greater Bombay*] to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits as the [2][[3][State] Government] thinks fit.

Powers exercisable by Bench in absence of special direction.

(*2*) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "The State Government may direct any two or more Magistrates in any place outside the presidency-towns".

[2] Substituted by the A. O. 1937 for "L.G."

[3] Substituted by the A. O. 1950 for "Provincial".

Power to frame rules for guidance of Benches.

16. The State Government may, or, subject to the control of the State Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(*a*) the classes of cases to be tried ;

(*b*) the times and places of sitting ;

(*c*) the constitution of the Bench for conducting trials ;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Magistrates and Benches to District Magistrate ;

17. (*1*) All Magistrates appointed under sections 12, 13 and 14 and all Benches constituted under section 15, shall be subordinate to the District Magistrate and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; and

to Sub-divisional Magistrate.

(*2*) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

Power to frame rules for guidance of Benches.

16. [1][*The High Court, subject to the sanction of the State Government*] may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects :—

(*a*) the classes of cases to be tried ;

(*b*) the times and places of sitting ;

(*c*) the constitution of the Bench for conducting trials ;

(*d*) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of [6][*Judicial Magistrates*] and Benches to [4][*Sessions Judge*].

17. (*1*) [2][*All Judicial Magistrates*] appointed under sections 12, [3]*and 14, and all Benches constituted under section 15, shall be subordinate to the [4][*Sessions Judge*] and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches ; [5]*

[7]* * * * * *

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "The State Government may, or, subject to the control of the State Government, the District Magistrate ".

[2] Substituted, *ibid*, or "All Magistrates ".

[3] The figures "13 " were deleted, *ibid*.

[4] Substituted, *ibid*, for "District Magistrate ".

[5] The word "and " was deleted, *ibid*.

[6] Substituted, *ibid*, for "Magistrates ".

[7] Sub-section (*2*) was deleted, *ibid*.

Subordination of Assistant Sessions Judges to Sessions Judge.

(*3*) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.

(*4*) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(*4*) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, [1][by a Civil Judge (Senior Division), or if there be no Civil Judge (Senior Division), by the Sessions Judge or Additional or Assistant Sessions Judge of an adjoining Sessions Division, and such Judge] shall have jurisdiction to deal with any such application.

(*5*) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge except to the extent and in the manner hereinafter expressly provided.

[2]* * * * * * *

Subordination of Executive Magistrates.

[3][**17A.** *Subordination of Executive Magistrates.*—(*1*) All Executive Magistrates appointed under section 13 or 14 shall be subordinate to the District Magistrate; and every Taluka Magistrate shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate.

(*2*) The District Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among the magistrates subordinate to him and as to allocation of business to an Additional District Magistrate].

[1] Substituted by Bom. 71 of 1954, s. 2, for "by the District Magistrate and such Judge or Magistrate".

[2] Sub-section (*5*) was deleted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[3] Substituted by Bom. 8 of 1954, s. 2 and Schedule Part I, for the original.

[1][17B. *Courts of Session and Courts of Magistrates (including Courts of Presidency Magistrates) shall be Criminal Courts inferior to the High Court and Courts of Magistrates outside Greater Bombay shall be Criminal Courts inferior to the Court of Session.*] *Inferior Criminal Courts.*

D.—Courts of Presidency Magistrates.

18. (*1*) The [2][[3][State] Government] shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town. **Appointment of Presidency Magistrates.**

(*2*) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate, or by any other Presidency Magistrate empowered by the [2][[3][State] Government] to sit singly, or by any Bench of Presidency Magistrates.

[4][(*3*) A Presidency Magistrate may be appointed under this section for such term as the [2][[3][State] Government] may, by general or special order, direct.

(*4*) The [2][[3][State] Government] may appoint any person to be an Additional Chief Presidency Magistrate and such Additional Chief Presidency Magistrate shall have all or any of the powers of a Chief Presidency Magistrate under this Code or under any other law for the time being in force, as the [2][[3][State] Government] may direct.]

[5][(*5*) *The power of appointment of the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate shall be exercised in consultation with the High Court and the power of appointment of other Presidency Magistrates shall, on the issue of public notification under article 237 of the Constitution, be exercised subject to the terms of the said notification.*]

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench. **Benches.**

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[1] Section 17B was inserted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[2] Substituted by the A. O. 1937 for "L. G.".

[3] Substituted by the A. O. 1950 for "Provincial".

[4] Sub-sections (*3*) and (*4*) were inserted by Act 18 of 1923, s. 3.

[5] Sub-section (*5*) was added by Bom. 23 of 1951, s. 2 and Schedule Part I.

Local limits of jurisdiction.

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Chief Presidency Magistrate.

21. (*1*) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the [1][[2][State] Government], make rules consistent with this Code to regulate—

(*a*) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town ;

(*b*) the times and places at which Benches of Magistrates shall sit ;

(*c*) the constitution of such Benches ;

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session ; and

(*e*) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(*2*) The [1][[2][State] Government] may, for the purposes of this Code, declare what Presidency Magistrates [3][including Additional Chief Presidency Magistrates] are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

E.—Justices of the Peace.

Justices of the Peace for the mufassal.

[4][**22.** Every [1][[2][State] Government] so far as regards the territories subject to its administration [5]* * *, may, by notification in the Official Gazette, appoint such [6][persons resident within [7][India] and not being the subjects of any foreign State] as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification.]

23 and **24.** [*Justice of the Peace for the Presidency-towns. Present Justices of the Peace.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 4.*

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[1] Substituted by the A. O. 1937 for "L. G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 4.

[4] Substituted by the Devolution Act, 1920 (38 of 1920), s. 2 nd Schedule I, for the original section.

[5] The words and brackets "(other than the presidency-towns)" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 3.

[6] Substituted by s. 3, *ibid*, for "European British subjects".

[7] The words "British India" have been successively substituted to read as above by the A. O. 1948, A. O. 1950 and Act I of 1951.

Ex-officio Justices of the Peace.

25. In virtue of their respective offices, [1]* * * * * * * * [2][the Judges of the High Courts] are Justices of the Peace within and for [3][the whole of India [4]* * *], Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the [5][[6][State] Government] under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

F.—Suspension and Removal.

26 and **27.** [*Suspension and removal of Judges and Magistrates. Suspension and removal of Justices of the Peace.*] *Rep. by the A. O. 1937.*

CHAPTER III.

POWERS OF COURTS.

A.—Description of offences cognizable by each Court.

Offences under Penal Code.

28. Subject to the other provisions of this Code any offence under the Indian XLV. of 1860. Penal Code may be tried—

(*a*) by the High Court, or

(*b*) by the Court of Session, or

(*c*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws.

29. (*1*) Subject to the [7][other provisions of this Code], any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(*2*) When no Court is so mentioned, it may be tried by the High Court or [8][subject as aforesaid] by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

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[1] The words "the Governor General, Governors, Lieutenant Governors, and Chief Commissioners, the Ordinary Members of the Council of the Governor General, and" rep. by the A. O. 1937.
[2] Substituted for "the Judges of the High Courts and the Recorder of Rangoon" by the Lower Burma Courts Act, 1900 (6 of 1900), s. 47 and Sch. I.
[3] Substituted by the A. O. 1950 for "all the Provinces of India".
[4] The words "except Part B States" were omitted by Act I of 1951, s. 5.
[5] Substituted by the A. O. 1937 for "L. G.".
[6] Substituted by the A. O. 1950 for "Provincial".
[7] Substituted by Act 12 of 1923, s. 5, for "provisions of s. 447".
[8] Inserted by Act 18 of 1923, s. 5.

29A. [*Trial of European British subjects by second and third class Magistrates.*] *Rep. by Act 17 of 1949, s. 3 (2).*

Justification in the case of juveniles.

29B. Any offence, other than one punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government to exercise the powers conferred by section 8, sub-section (*1*) of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been, wholly or in part, repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.

VIII of 1897.

Jurisdiction in the case of juveniles.

[1][29B.† Any offence, other than one punishable with death or [2][imprisonment] for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by [3]* * * * * * a Chief Presidency Magistrate, or [4][by any Judicial Magistrate specially empowered by the State Government in consultation with the High Court] to exercise the powers conferred by section 8, sub-section (*1*) of the Reformatory Schools Act, 1897, or, in an area in which the said Act has been, wholly or in part, repealed by any other law providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.]

VIII of 1897.

30. *Offences punishable with imprisonment not exceeding seven years.*—Notwithstanding anything contained in section 28 or section 29, the State Government may, in consultation with the High Court, invest any District Magistrate, Presidency Magistrate or Magistrate of the first class with power to try as a Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years :

[5][**30.** *Offences punishable with imprisonment not exceeding seven years.*—Notwithstanding anything contained in section 28 or section 29, the State Government may, in consultation with the High Court, invest any [6]* *, Presidency Magistrate or Magistrate of the first class with power to try as a Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years :

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[1] Inserted by Act 18 of 1923, s. 6.

†The provisions of section 29B shall cease to apply to any area in which Parts II to XI of the Bombay Children Act, 1948 (Bom. LXXI of 1948), have been brought into operation (*vide* s. 6 of Bom. 71 of 1948).

[2] Substituted by Act 26 of 1955 for "transportation".

[3] The words "a District Magistrate or" were deleted by Bom. 23 of 1951, s. 2 and Sch. Part I.

[4] Substituted, *ibid*, for "by any Magistrate specially empowered by the State Government".

[5] Substituted by Act 26 of 1955, s. 6, for the original.

[6] The words "District Magistrate" were deleted by Bom. 39 of 1955, s. 3.

Provided that no District Magistrate, Presidency Magistrate or Magistrate of the first class shall be invested with such powers unless he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class.

Provided that no [1]* * Presidency Magistrate or Magistrate of the first class shall be invested with such powers unless he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class.]

B.—Sentences which may be passed by Courts of various Classes.

Sentences which High Court and Sessions Judges may pass.

31. (*1*) A High Court may pass any sentence authorized by law.

(*2*) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(*3*) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or [2][of imprisonment for life or of imprisonment for a term exceeding ten years.]

Sentences which Magistrates may pass.

32. (*1*) The Courts of Magistrates may pass the following sentences namely :—

(*a*) Courts of Presidency Magistrates and of Magistrates of the first class :	Imprisonment for a term not exceeding two years including such solitary confinement as is authorized by law; Fine not exceeding [3][two thousand] rupees; Whipping.
(*b*) Courts of Magistrates of the second class :	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorised by law; Fine not exceeding [4][five hundred] rupees; [5]* * * * * * *
(*c*) Courts of Magistrates of the third class :	Imprisonment for a term not exceeding one month; Fine not exceeding [6][one hundred] rupees.

(*2*) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

[7]* * * * * * * *

Power of Magistrates to sentence to imprisonment in default of fine.

33. (*1*) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default :

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[1] The words "District Magistrate" were deleted by Bom. 39 of 1955, s. 3.

[2] Substituted by Act 26 of 1955, s. 7, for the original portion.

[3] Substituted, *ibid*, s. 8 (*i*), for "one thousand".

[4] Substituted, *ibid*, s. 8 (*ii*), for "two hundred".

[5] The words "Whipping (if specially empowered)" repealed by the Whipping Act, 1909 (4 of 1909), s. 8 and Schedule.

[6] Substituted by Act 26 of 1955, s. 8 (*iii*), for "fifty".

[7] Sub-section (*3*) repealed by the Whipping Act, 1909 (4 of 1909), s. 8 and Schedule.

Proviso as to certain cases.

Provided that—

(*a*) the term is not in excess of the Magistrate's powers under this Code;

(*b*) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(*2*) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain District Magistrates.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of [1][imprisonment for life] or imprisonment for a term exceeding seven years.

34A. [*Sentences which Courts and Magistrates may pass upon European British subjects.*] *Rep. by Act 17 of 1949, s. 3 (2).*

Sentence in cases of conviction of several offences at one trial.

35. (*1*) [2][When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code,] sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment * * to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently. XLV of 1860.

(*2*) In the case of consecutive sentences it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows:—

Maximum term of punishment.

(*a*) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

(*b*) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

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[1] Substituted by Act 26 of 1955, s. 9, for "transportation for a term exceeding seven years".

[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 7, for "When a person is convicted at one trial of two or more distinct offences, the Court may".

(*3*) For the purpose of appeal, [1][the aggregate of consecutive] sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

[2]* * * * * *

C.—Ordinary and Additional Powers.

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers". Ordinary powers of Magistrates.

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the State Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the State Government or the District Magistrate. Additional powers conferrable on Magistrates.

36. All [3][*Judicial and Executive Magistrates other than Special Judicial and Executive Magistrates*], have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers." Ordinary powers of Magistrates.

[4][**37.** (*1*) *In addition to his ordinary powers,—* *Additional powers conferrable on Magistrates.*

(*a*) *the State Government may invest any Magistrate with any of the powers as specified in the fourth Schedule, and*

(*b*) *a Sessions Judge may invest any Judicial Magistrate within his local jurisdiction with the powers specified in sub-part (B) of Part I of the fourth Schedule.*

(*2*) (*i*) *The power under clause (a) of sub-section (1) shall be exercised by the State Government in the case of Judicial Magistrates in consultation with the High Court.*

(*ii*) *The power under clause (b) of sub-section (1) shall be exercised by the Sessions Judge with the approval of the High Court.*

(*3*) *The State Government may authorise a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part II of the fourth Schedule.*]

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[1] Substituted by Act 18 of 1923, s. 7, for "aggregate".

[2] The Explanation and Illustration to s. 35 rep. by s. 7, *ibid.*

[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "District Magistrates, Sub-Divisional Magistrates and Magistrates of the first, second and third classes".

[4] Substituted by Bom. 34 of 1953, s. 4, for the existing s. 37.

Control of District Magistrate's investing power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the State Government.

Control of District Magistrate's investing power.

38. The power [1][*delegated to*] the District Magistrate by section 37 shall be exercised subject to the control of the [2][[3][State] Government].

Powers on Judicial Magistrates to be conferred in consultation with the High Court.

[4][**38A.** *Whenever under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution any judicial powers are to be conferred on a Sessions Judge, an Additional or Assistant Sessions Judge or a Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with the High Court notwithstanding that such provision may not expressly provide for such consultation.*

Explanation.—For the purposes of this section, the question whether any powers are judicial shall be decided by the State Government in consultation with the High Court and such decision shall be final.]

D.—Conferment, Continuance and Cancellation of Powers.

Mode of conferring powers.

39. (*1*) In conferring powers under this Code the [2][[3][State] Government] may, by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

(*2*) Every such order shall take effect from the date on which it is communicated to the person so empowered.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "conferred on".

[2] Substituted by the A. O. 1937 for "L.G.".

[3] Substituted by the A. O. 1950 for "Provincial".

[4] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

Powers of officers appointed.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is [1][appointed] to an equal or higher office of the same nature, within a like local area under the same [2][[3][State] Government], he shall, unless the [2][[3][State] Government] otherwise directs, or has otherwise directed, [4]* * exercise the same powers in the local area [5][in which] he is so [1][appointed].

Powers may be cancelled.

41. (*1*) The State Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it.

41. (*1*) The [2][[3][State] Government] may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it:

[6][*Provided that in the case of Judicial Magistrates the withdrawal of such powers shall be made in consultation with the High Court.*]

(*2*) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

[7][(*3*) Any powers conferred by the Sessions Judge may be withdrawn by the Sessions Judge with the approval of the High Court.]

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

Public when to assist Magistrate and police.

42. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid, whether within or without the presidency-towns,—

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest;

(*b*) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (*1*) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Indian Penal Code (namely) 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460 shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

XLV of 1860.

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[1] Substituted by Act 18 of 1923, s. 8, for "transferred".
[2] Substituted by the A. O. 1937 for "L. G.".
[3] Substituted by the A. O. 1950 for "Provincial".
[4] The words "continue to" rep. by Act 18 of 1923, s. 8.
[5] Substituted by s. 8, *ibid*, for "to which".
[6] Added by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[7] Inserted by Bom. 71 of 1954, s. 3.

(*2*) For the purposes of this section the term "offence" includes any act committed at any place out of [1][India] which would constitute an offence if committed in [1][India].

Village-headmen, accountants, landholders and others bound to report certain matters.

45. (*1*) Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier [2][in charge of the management of that land], [3][and every member of a village panchayat, other than a judicial panchayat (where such panchayat, by whatever name called, is constituted under any law for the time being in force)] and every officer employed in the collection of revenue or rent of land on the part of [4][the [5][Government]]] or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station whichever is the nearer, any information which he may [6][possess] respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be a thief, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under sections 143, 144, 145, 147 or 148 of the Indian Penal Code; XLV of 1860.

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances [2][or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person];

(*e*) the commission of, or intention to commit, at any place out of [1][India] near such village any act which, if committed in [1][India], would be an offence punishable under any of the following sections of the Indian Penal Code, namely, [2][231, 232, 233, 234, 235, 236, 237, 238,] 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, [7][460, 489A, 489B, 489C and 489D]; XLV of 1860.

(*f*) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate by general or special order made with the previous sanction of the [8][[9][State] Government], has directed him to communicate information.

(*2*) In this section—

(*i*) "village" includes village-lands; and

(*ii*) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued [10][by the Central Government outside India], in respect of any act which if committed in [1][India],

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[1] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act I of 1951 to read as above.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.

[3] Inserted by Act 26 of 1955, s. 11.

[4] Substituted by the A. O., 1937 for "Govt.".

[5] Substituted by the A. O., 1950 for "Crown".

[6] Substituted by Act 18 of 1923, s. 9, for "obtain".

[7] Substituted, *ibid*, for "and 460".

[8] Substituted by the A. O. 1937 for "L. G."

[9] Substituted by the A. O. 1950 for "Provincial".

[10] Substituted by Act I of 1951, s. 7, for "by the Central Government or the Crown Representative in any part of India".

would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460. XLV of 1860.

(*3*) Subject to rules in this behalf to be made by the [1][[2][State] Government], the District Magistrate [3][or Sub-divisional Magistrate] may from time to time appoint one or more persons [3][with his or their consent] [4][to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.] Appointment of village-headmen by District Magistrate or Sub-divisional Magistrate in certain cases for purposes of this section.

CHAPTER V.

OF ARREST, ESCAPE AND RETAKING.

A.—Arrest generally.

46. (*1*) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. Arrest how made.

(*2*) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest. Resisting endeavour to arrest.

(*3*) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with [5][imprisonment] for life.

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, [6][any person residing] in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein. Search of place entered by person sought to be arrested.

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance: Procedure where ingress not obtainable.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it. Breaking open Zanana.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 9.
[4] Substituted, *ibid*, for "to be village-headmen for the purposes of this section in any village for which there is no, such headman appointed under any other law".
[5] Substituted by Act 26 of 1955, s. 12, for "transportation".
[6] Substituted, *ibid*, s. 13, for "the person residing".

Power to break open doors and windows for purposes of liberation.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of searching women.

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Power to seize offensive weapons.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant.

When Police may arrest without warrant.

54. (*1*) Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

first, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of the [1][[2][State] Government];

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property [and] who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly, any person reasonably suspected of being a deserter from [4][the Indian] [5][Army, Navy or Air Force], [6]* * [7][or from any unit of [8][the armed forces maintained by Part B States] [9]* * * * *

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[1] Substituted by the A. O. 1937 for "L. G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 10, for "or"

[4] Substituted by the A. O. 1950 for "Her Majesty's".

[5] Substituted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "Army or Navy".

[6] The words "or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service" rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[7] Inserted by the Code of Criminal Procedure (Amendment) Ordinance, 1944 (48 of 1944), s. 2.

[8] Substituted by the A. O. 1950 for "Indian States Forces".

[9] The words "declared under the Indian Extradition Act, 1903, to be a unit desertion from which is an extradition offence" were omitted by Act 1 of 1951, s. 8.

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of [1][India] which, if committed in [1][India] would have been punishable as an offence, and for which he is, under any law relating to extradition [2]* * * * * or otherwise, liable to be apprehended or detained in custody in [1][India]; [3]*

eighthly, any released convict committing a breach of any rule made under section 565, sub-section (*3*);

[4][*ninthly*, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.]

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

(*2*) This section applies also to the police in the town [5]* of Calcutta [5]* *.

55. (*1*) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested— Arrest of vagabonds, habitual robbers, etc.

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear for injury.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

(*2*) This section applies also to the police in the town [5]* of Calcutta [5]* *.

56. (*1*) When any officer in charge of a police-station [6][or any police-officer making an investigation under Chapter XIV] requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. [6][The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.] Procedure when police-officer deputes subordinate to arrest without warrant.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

(*2*) This section applies also to the police in the town [5]* of Calcutta [5]* *.

57. (*1*) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained. Refusal to give name and residence.

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[1] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[2] The words and figures "or under the Fugitive Offenders Act, 1881" were omitted by Act 1 of 1951, s. 8.

[3] The word "and" rep. by Act 10 of 1927, s. 3 and Sch. II.

[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 10.

[5] The letter "s" and the words "and Bombay" rep. by the City of Bombay Police Act, 1902 (Bom. Act 4 of 1902), s. 2 (*1*) and Sch. A.

[6] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 11.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear [1][*before a Magistrate having jurisdiction if so required*] :

Provided that, if such person is not resident in [2][India], the bond shall be secured by a surety or sureties resident in [2][India].

(*3*) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of offenders into other jurisdictions.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in [2][India].

Arrest by private persons and procedure on such arrest.

59. [3][(*1*) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.]

(*2*) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(*3*) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person arrested to be taken before Magistrate or officer in charge of police-station.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested not to be detained more than twenty-four hours.

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Police to report apprehensions.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part 1, for "before a Magistrate if so required".

[2] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 12, for original sub-section.

63. No person who has been arrested by a police-officer sha be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the [1][*special order of a Magistrate having jurisdiction*]. Discharge of person apprehended.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody. Offence committed in Magistrate's presence.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant. Arrest by or in presence of Magistrate.

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in [2][India]. Power, on escape, to pursue and retake.

67. The provisions of sections 47, 48 and 49 shall apply to arrest under section 66 although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest. Provisions of sections 47 48 and 49 to apply to arrests under section 66.

CHAPTER VI.

OF PROCESSES TO COMPEL APPEARANCE.

A.—Summons.

68. (*1*) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule direct. Form of summons.

(*2*) Such summons shall be served by a police-officer, or subject to such rules as the [3][[4][State] Government] may prescribe in this behalf, by an officer of the Court issuing it or other public servant. Summons by whom served.

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

69. (*1*) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons. Summons how served.

(*2*) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate. Signature of receipt for summons.

(*3*) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in [2][India]. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "special order of a Magistrate".

[2] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[3] Substituted by the A. O. 1937 for "L. G.".

[4] Substituted by the A. O. 1950 for "Provincial".

Service when person summoned cannot be found.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company.

72. (*1*) Where the person summoned is in the active service of the [1][Government] or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endrosement required by that section.

(*2*) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases and when serving officer not present.

74. (*1*) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(*2*) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest.

75. (*1*) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(*2*) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

76. (*1*) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant, that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

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[1] Substituted by the A. O. 1950 for "Crown".

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(c) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed.

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to several persons.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them.

Warrant may be directed to landholders, etc.

78. (1) A District Magistrate or Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Warrant may be directed to landholders, etc.

78. (1) A District Magistrate or Sub-divisional Magistrate [1][*or Magistrate of the first class*] may direct a warrant to any landholder, farmer or manager of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Notification of substance of warrant.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in [2][India].

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[1] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[2] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

Warrant forwarded for execution outside jurisdiction.

83. (*1*) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction it is to be executed.

[1](*2*) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to Police-officer for execution outside jurisdiction.

84. (*1*) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(*2*) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(*3*) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(*4*) This section applies also to the police in the towns of Calcutta and Bombay.

(*4*) This section applies also to the police in the town[2]* of Calcutta [2]*.

Procedure on arrest of person against whom warrant issued.

[3]**85.** When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

Procedure by Magistrate before whom person arrested is brought.

[3]**86.** (*1*) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security as the case may be, and forward the bond to the Court which issued the warrant.

(*2*) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76.

C.—Proclamation and Attachment.

Proclamation for person absconding

87. (*1*) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may

[1] This sub-section, so far as it applies to the police in the Town of Bombay, rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Sch. A.

[2] The letter "s" and the words "and Bombay" rep., *ibid.*

[3] Ss. 85 and 86, so far as they apply to the police in the Town of Bombay, rep., *ibid.*

publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows :—

(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding.

88. (1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(2) Such order shall authorize the attachment of any property belonging to such person within the district in which it is made ; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

(a) by seizure ; or

(b) by the appointment of a receiver ; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf ; or

(d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to [1][the [2][State] Government], be made through the Collector of the district in which the land is situate, and in all other cases—

(e) by taking possession ; or

(f) by the appointment of a receiver ; or

(g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf ; or

(h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure[3].

XIV of 1882.

[1] Substituted by the A. O. 1937 for "Govt.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] *See* now the Code of Civil Procedure, 1908 (5 of 1908).

[1][(*6A*) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under this section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part :

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(*6B*) Claims or objections under sub-section (*6A*) may be preferred or made in the Court by which the order of attachment is issued or, if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate or Chief Presidency Magistrate in accordance with the provisions of sub-section (*2*), in the Court of such Magistrate.

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first or second class or to any Presidency Magistrate, as the case may be subordinate to him.

(*6C*) Every such claim or objection shall be inquired into by the Court in which it is preferred or made :

Provided that, if it is preferred or made in the Court of a District Magistrate or Chief Presidency Magistrate, such Magistrate may make it over for disposal to any Magistrate [2]* * * * * * subordinate to him.

(*6D*) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (*6A*) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute ; but subject to the result of such suit, if any, the order shall be conclusive.

(*6E*) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.]

(*7*) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of [3][the [4][State] Government], but it shall not be sold until the expiration of six months from the date of the attachment [5][and until any claim preferred or objection made under sub-section (*6A*) has been disposed of under that sub-section], unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner ; in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

89. If, within two years from the date of the attachment any person whose property is or has been at the disposal of [3][the [4][State] Government], under sub-section (*7*) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such

[1] Sub-sections (*6A*) to (*6E*) ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 13.

[2] The words "of the first or second class or to any Presidency Magistrate, as the case may be," were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[3] Substituted by the A. O. 1937 for "Govt.".

[4] Substituted by the A. O. 1950 for "Provincial".

[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 13.

Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—Other Rules regarding Processes.

Issue of warrant in lieu of, or in addition to summons.

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror[1]* * issue, after recording its reasons in writing, a warrant for his arrest—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Arrest on breach of bond for appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

[2][*E.—Special Rules regarding Processes in certain cases.*

Special rules regarding processes in certain cases.

93A. (*1*) In this section, the expression "internal court" means any court in the territories to which this Code extends and the expression "external court" means any court established or continued by the authority of the Central Government in exercise of its foreign jurisdiction or any court in the State of Jammu and Kashmir or in the State of Manipur.

(*2*) Where an internal court desires that a summons to, or a warrant for the arrest of, an accused person issued by it shall be executed at any place within the local limits of the jurisdiction of an external court, it may send such summons or warrant, in duplicate, by post or otherwise, to the presiding officer of that court to be served or executed; and where any such summons has been so served, the provisions of section 74 shall apply in relation to such summons as if the presiding officer of the external court to whom it is sent were a magistrate in the territories to which this Code extends.

(*3*) Where an internal court has received for service or execution a summons to, or a warrant for the arrest of, an accused person issued by an external court, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another internal court for service or execution within the local limits of its jurisdiction; and where any such warrant of arrest has been so executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 85 and 86.]

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[1] The words "or assessor" were omitted by Act 26 of 1955, s. 14.

[2] Substituted by Act 1 of 1951, s. 9, for the original Part E consisting of ss. 93A, 93B and 93C.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A.—Summons to produce.

Summons to produce document or other thing.

94. (*1*) Whenever any Court or in any place beyond the limits of the towns of Calcutta and Bombay any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

Summons to produce document or other thing.

94. (*1*) Whenever any Court, or in any place [1][*beyond the limits of Greater Bombay*], any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(*2*) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(*3*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities. 1 of 1872.

Procedure as to letters and telegrams.

95. (*1*) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(*2*) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

B.—Search-warrants.

When search-warrant may be issued.

96. (*1*) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, sub-section (*1*), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "beyond the limits of the towns of Calcutta and Bombay".

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(*2*) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

Power to restrict warrant.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house suspected to contain stolen property, forged documents, etc.

98. (*1*) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

[1][or, if a District Magistrate, Sub-divisional Magistrate or a Presidency Magistrate upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code or that any such obscene objects are kept or deposited in any place;]

XLV of 1860.

he may by his warrant authorize any police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials [1][or of any such obscene objects] as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials [1][or such obscene objects] before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials [1][or such obscene objects] knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging [1][or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated imported or exported.]

[1] Inserted by the Obscene Publications Act, 1925 (8 of 1925), s. 3.

(2) The provisions of this section with respect to—

(*a*) counterfeit coin,

(*b*) coin suspected to be counterfeit, and

(*c*) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply respectively to—

(*a*) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into [1][India] in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878, I of 1889. VIII of 1878.

(*b*) pieces of metal suspected to have been so made or to have been so brought into [1][India] or to be intended to be issued in contravention of the former of those Acts, and

(*c*) instruments or materials for making pieces of metal in contravention of that Act.

Disposal of things found in search beyond jurisdiction.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate ; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

Power to declare certain publications forfeited and to issue search-warrants for the same.

[2][**99A.** (1) Where—

(*a*) any newspaper, or book as defined in the Press and Registration of Books Act, 1867, or XXV of 1867.

(*b*) any document,

wherever printed, appears to the [3][[4][State] Government] to contain any seditious matter [5][or any matter which promotes or is intended to promote feelings of enmity or hatred between different classes of [6][the citizens of India] [7][or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class], that is to say, any matter the publication of which is punishable under section 124A [8][or section 153A] [9][or section 295A] of the Indian Penal Code, the [3][[4][State] Government] may, by notification in the [10][Official Gazette], stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, XLV of 1860.

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[1] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[2] Ss. 99A to 99G ins. by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 5, Sch. III.

[3] Substituted by the A. O. 1937 for "L. G.".

[4] Substituted by the A. O. 1950 for "Provincial".

[5] Inserted by the Code of Criminal Procedure (Third Amendment) Act, 1926 (36 of 1926), s. 2.

[6] Substituted by the A. O. 1950 for "His Majesty's subjects".

[7] Inserted by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

[8] Inserted by the Code of Criminal Procedure (Third Amendment) Act, 1926 (36 of 1926), s. 2.

[9] Inserted by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

[10] Substituted by the A. O. 1937 for "local official Gazette".

and every copy of such book or other document to be forfeited to [1][Government] and thereupon any police-officer may seize the same wherever found in [2][India] and any Magistrate may by warrant authorize any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(*2*) In sub-section (*1*) " document " includes also any painting, drawing or photograph, or other visible representation.

Application to High Court to set aside order of forfeiture.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made, did not contain any [3][seditious or other matter of such a nature as is referred to in sub-section (*1*) of section 99A].

Hearing by Special Bench.

99C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

Order of Special Bench setting aside forfeiture.

99D. (*1*) On receipt of the application, the Special Bench shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained [4][seditious or other matter of such a nature as is] referred to in sub-section (*1*) of section 99A, set aside the order of forfeiture.

(*2*) Where there is a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority of those Judges.

Evidence to prove nature or tendency of newspapers.

99E. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, [5][in respect of which the order of forfeiture was made].

Procedure in High Court.

99F. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Jurisdiction barred.

99G. No order passed or action taken under section 99A shall be called in question in any Court otherwise than in accordance with the provisions of section 99B.]

C.—Discovery of Persons wrongfully confined.

Search for persons wrongfully confined.

100. If any Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for

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[1] Substituted by the A. O. 1950 for " His Majesty ".

[2] The words " British India " have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[3] Substituted by Act 36 of 1926, s. 3, for " seditious matter ".

[4] Substituted by s. 4, *ibid*, for " seditious matter of the nature ".

[5] Substituted by s. 5, *ibid*, for " which are alleged to be seditious matter ".

the person so confined ; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

D.—General Provisions relating to Searches.

Direction, etc., of search warrants.

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84 shall, so far as may be, apply to all search-warrants issued under section 96, section 98, [1][section 99A] or section 100.

Persons in charge of closed place to allow search.

102. (*1*) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

(*2*) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(*3*) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses.

103. (*1*) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search [2][and may issue an order in writing to them or any of them so to do].

(*2*) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses ; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

(*3*) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person [3]* * *

(*4*) When any person is searched under section 102, sub-section (*3*), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person [3]* * *

[2][(*5*) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.] XLV of 1860.

E.—Miscellaneous.

Power to impound document, etc., produced.

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Magistrate may direct search in his presence.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

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[1] Inserted by the Press Law Repeal and Amendment Act, 1922 (14 of 1922), s. 5 and Sch. III.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 14.

[3] The words "at his request" were omitted by Act 26 of 1955, s. 15.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

PROVINCIAL FOREST OFFICE ... PLANS, S. C.

Security for keeping the peace on conviction.

106. (*1*) Whenever any person accused of any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A, or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Sessions or the Court of a Presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class,

XLV of 1860.

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties, for keeping the peace during such period, not exceeding three years as it thinks fit to fix.

Security for keeping the peace on conviction.

106. (*1*) Whenever any person accused of [1][any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 143, section 149, section 153A, or section 154 thereof or of] assault or other offence involving a breach of the peace or of abetting the same, [2]* * *, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate [3]* * * * * * or a Magistrate of the first class,

XLV of 1860.

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties, for keeping the peace during such period, not exceeding three years as it thinks fit to fix.

(*2*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*3*) An order under this section may also be made by an Appellate Court [4][including a Court hearing appeals under section 407] or by the High Court when exercising its powers of revision.

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[1] Substituted by Act 18 of 1923, s. 15, for "rioting".

[2] The words "or of assembling armed men or taking other unlawful measures with the evident intention of committing the same" rep., *ibid*, s. 15.

[3] The words "a District Magistrate, a Sub-divisional Magistrate" were deleted by Bom. 23 of 1951, s.2 and Sch. Pt. I.

[4] Inserted by Act 18 of 1923, s. 15.

B.—Security for keeping the Peace in other Cases and security for Good Behaviour.

Security for keeping the peace in other cases.

107. (*1*) Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

Security for keeping the peace in other cases.

107. (*1*) Whenever a [1][*Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or Sub-divisional Magistrate or a Taluka Magistrate specially empowered by the State Government in this behalf*] is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity the Magistrate [2][if in his opinion there is sufficient ground for proceeding] may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

[3][(*2*) Proceedings under this section may be taken before any Magistrate empowered to proceed under sub-section (*1*) when either the place where the breach of the peace or disturbance is apprehended is within the local limits of such Magistrate's jurisdiction or there is within such limits a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such limits.]

Procedure of Magistrate not empowered to act under sub-section (*1*).

(*3*) When any Magistrate not empowered to proceed under sub-section (*1*) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons

(*4*) A Magistrate before whom a person is sent under [4][sub-section (*3*)] may in his discretion detain such person in custody [5][pending further action by himself under this Chapter].

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class".

[2] Inserted by Act 18 of 1923, s. 16.

[3] Substituted by Act 26 of 1955, s. 16, for the original sub-section (*2*).

[4] Substituted by Act 18 of 1923, s. 16, for "this section".

[5] Substituted by s. 16, *ibid*, for "until the completion of the inquiry hereinafter prescribed".

Security for good behaviour from persons disseminating seditious matter.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the State Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter that is to say, any matter the publication of which is punishable under section 124-A of the Indian Penal Code, or

XLV of 1860.

(*b*) any matter the publication of which is punishable under section 133-A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed

Security for good behaviour from persons disseminating seditious matter.

108. Whenever a Chief Presidency or District Magistrate [1][*or Sub-divisional Magistrate or a Presidency Magistrate*] specially empowered by the [2][.[3][State] Government] in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing [4][or in any other manner intentionally] disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(*a*) any seditious matter that is to say, any matter the publication of which is punishable under section 124-A of the Indian Penal Code, or

XLV of 1860.

(*b*) any matter the publication of which is punishable under section 153-A of the Indian Penal Code, or

(*c*) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,

such Magistrate, [4][if in his opinion there is sufficient ground for proceeding] may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, [5][and edited, printed and published] in

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "or a Presidency Magistrate or Magistrate of the first class".
[2] Substituted by the A. O. 1937 for "L. G.".
[3] Substituted by the A. O. 1950 for "Provincial".
[4] Inserted by Act 18 of 1923, s. 17.
[5] Substituted by s. 17, *ibid*, for "or printed or published".

and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matters contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf. XXV of 1867.

conformity with, the rules laid down in the Press and Registration of Books Act, 1867, [1][with reference to any matters contained in such publication] except by the order or under the authority of [2]* * * * * * * the [3][[4][State] Government] or some officer empowered [5][by the [4][State] Government] in this behalf. XXV of 1867.

Securi y for good behaviour from vagrants and suspected persons.

109. Whenever a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour from vagrants and suspected persons.

109. Whenever a [6]*[Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate*] receives information—

(*a*) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(*b*) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate, may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour from habitual offenders.

110. Whenever a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this

Security for good behaviour from habitual offenders.

110. Whenever a [7]*[Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-divisional Magistrate*] receives

[1] Inserted by Act 18 of 1923, s. 17.
[2] The words "the G. G. in C. or" rep. by the A. O. 1937.
[3] Substituted by the A. O. 1937 for "L. G.".
[4] Substituted by the A. O. 1950 for "Provincial".
[5] Substituted by the A. O. 1937 for "by the G. G. in C.".
[6] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class".
[7] Substituted by s. 2 and Sch. Pt. I, *ibid*, for "Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the State Government".

behalf by the State Government receives information that any person within the local limits of his jurisdiction—

(*a*) is by habit a robber, house-breaker, thief, or forger, or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or

(*d*) habitually commits, or attempts to commit, or abets the commission of the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489-A, section 489-B, section 489-C or section 489-D of that Code, or

XLV of 1860.

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

information that any person within the local limits of his jurisdiction]—

(*a*) is by habit a robber, house-breaker, [1]*thief, [2][or forger], or

(*b*) is by habit a receiver of stolen property knowing the same to have been stolen, or

(*c*) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or

[3][(*d*) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489-A, section 489-B, section 489-C or section 489-D of that Code, or]

XLV of 1860.

(*e*) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(*f*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

111. [*Proviso as to European vagrants.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 8.*

112. When a Magistrate acting under section 107, section 108, section 109 or section, 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required. Order to be made.

[1] The word "or" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 18.
[2] Inserted by s. 18, *ibid.*
[3] Substituted by s. 18, *ibid*, for the original cl. (*d*).

Procedure in respect of person present in Court.

113. If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court :

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Copy of order under section 112 to accompany summons or warrant.

115. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

Power to dispense with personal attendance.

116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Inquiry as to truth of information.

117. (*1*) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 114, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

[1][(*2*) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in summons cases.]

[2][(*3*) Pending the completion of the inquiry under sub-section (*1*) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution until the inquiry is concluded :

Provided that :—

(*a*) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behaviour, and

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112].

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[1] Substituted by Act 26 of 1955, s. 17, for the original sub-section (*2*).

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 19.

[1][(*4*)] For the purposes of this section the fact that a person is an habitual offender [2][or is so desperate and dangerous as to render his being at large without security hazardous to the community] may be proved by evidence of general repute or otherwise.

[1][(*5*)] Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give security.

118. (*1*) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrates shall make an order accordingly :

Provided—

first, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112 ;

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive ;

thirdly, that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

119. If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.—Proceedings in all Cases subsequent to Order to furnish Security.

Commencement of period for which security is required.

120. (*1*) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment the period for which such security is required shall commence on the expiration of such sentence.

(*2*) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents of bond.

121. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

[3][**122.** (*1*) A Magistrate may. refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(*2*) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

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[1] The original sub-sections (*3*) and (*4*) were renumbered (*4*) and (*5*) respectively by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 19.

[2] Inserted by s. 19, *ibid.*

[3] Substituted by s. 20, *ibid*, for original section.

(*3*) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (*1*), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing :

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.]

Imprisonment in default of security.

123. (*1*) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before High Court or Court of Sessions.

(*2*) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court ; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(*3*) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit :

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

[1][(*3A*) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge or the High Court under sub-section (*2*), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (*2*) and (*3*) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(*3B*) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (*2*) or sub-section (*3A*) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.]

(*4*) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

Kind of imprisonment.

(*5*) Imprisonment for failure to give security for keeping the peace shall b simple.

(*6*) Imprisonment for failure to give security for good behaviour [2][shall, wher the proceedings have been taken under section 108 [3]* * be simple and, where th

[1] Sub-sections (*3A*) and (*3B*) ins. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 21.

[2] Substituted by s. 21, *ibid*, for " may ".

[3] The words and figures " or s. 109 " rep. by the Code of Criminal Procedure (Second Amendment) Act, 1926 (10 of 1926), s. 2.

proceedings have been taken under [1][section 109 or] section 110], be rigorous or simple as the Court or Magistrate in each case directs.

Power to release persons imprisoned for failing to give security.

124. (*1*) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter [2]* * * may be released without hazard to the community or to any other person, he may order such person to be discharged.

(*2*) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

[3][(*3*) An order under sub-section (*1*) may direct the discharge of such person either without conditions or upon any conditions which such person accepts :

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired].

[4][(*4*) The [5][[6][State] Government] may prescribe the conditions upon which a conditional discharge may be made.]

[4][(*5*) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate or Chief Presidency Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.]

[4][(*6*) When a conditional order of discharge has been cancelled under sub-section (*5*), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the District Magistrate or Chief Presidency Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate or Chief Presidency Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.]

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

125. The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

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[1] Inserted by Act 10 of 1926, s. 2.

[2] The words "whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate" rep. by s. 22 of Act 18 of 1923.

[3] Substituted for the original sub-section (*3*) by s. 22, *ibid.*

[4] Sub-sections (*4*), (*5*) and (*6*) inserted by s. 22, *ibid.*

[5] Substituted by the A. O. 1937 for "L. G.".

[6] Substituted by the A. O. 1950 for "Provincial".

Discharge of sureties.

126. (*1*) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the First Class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(*2*) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person, for whom such surety is bound, to appear or to be brought before him.

Discharge of sureties.

126. (*1*) Any surety for the peaceable conduct or good behaviour of another person may at any time apply [1][*to the Court by which an order was made to give security*] to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

[2][(*2*) *On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it*].

Security for unexpired period of bond.

[3]**[126A.]** [4][When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (*3*) of section 122 or under section 126, sub-section (*2*), appears or is brought before him, the Magistrate shall cancel the bond executed by such person] and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

CHAPTER IX[5].

UNLAWFUL ASSEMBLIES.

Assembly to disperse on command of Magistrate or police-officer.

127. (*1*) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse ; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(*2*) This section applies also to the police in the towns of Calcutta and Bombay.

(*2*) This section applies also to the police in the town [6]* of Calcutta[6]* *.

Use of civil force to disperse.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, [7][soldier, sailor or airman in [8][the armed forces]] and acting as such, for

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "to a Presidency Magistrate, District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class".

[2] Substituted by s. 2 and Schedule Part I, *ibid*, for the original sub-section (*2*).

[3] Sub-section (*3*) of s. 126 renumbered as s. 126A by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 23.

[4] Substituted by s. 23, *ibid*, for "When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond".

[5] The whole of this Chapter, so far as it applies to the City of Bombay, rep. by the City of Bombay Police Act, 1902 (Bom. 4 of 1902), s. 2 (*1*) and Schedule A.

[6] The letter "s" and the words "and Bombay" rep., *ibid*.

[7] Substituted by the Amending Act, 1934 (35 of 1934), s. 2 and Schedule, for "or soldier in Her Majesty's Army".

[8] Substituted by Act 64 of 1952, s. 2, for "the Indian Army, Navy or Air Force or a person subject to the Territorial Army Act, 1948".

the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Use of military force.

129. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, Magistrate of the highest rank who is present may cause it to be dispersed by [1][the armed forces].

Duty of officer commanding troops required by Magistrate to disperse assembly.

130. (*1*) When a Magistrate determines to disperse any such assembly [2][by the armed forces, he may require any officer thereof in command of any group of persons belonging to the armed forces to disperse such assembly with the help of the armed forces under his command], and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(*2*) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with [3][any commissioned officer of the armed forces may disperse such assembly with the help of the armed forces under his command], and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law ; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Protection against prosecution for act done under this Chapter.

132. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the [4][[5][State] Government] ; and—

(*a*) no Magistrate or police-officer acting under this Chapter in good faith,

(*b*) no officer acting under section 131 in good faith,

(*c*) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(*d*) no inferior officer, or [6][soldier, sailor or airman in the armed forces] doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence :

[7][Provided that no such prosecution shall be instituted in any Criminal Court against any officer or [8][soldier, sailor or airman in the armed forces] except with the sanction of the [9][Central Government].]

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[1] Substituted by Act 64 of 1952, s. 3, for "military force".

[2] Substituted by s. 4, *ibid*, for "by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in the Indian Army or of any persons subject to the Territorial Army Act, 1948, to disperse such assembly by military force".

[3] Substituted by s. 5, *ibid*, for "any commissioned officer of the Indian Army may disperse such assembly by military force".

[4] Substituted by the A. O. 1937 for "L. G." which had been substituted for "G. G. in C." by the Devolution Act, 1920 (38 of 1920), s. 2 and Schedule I.

[5] Substituted by the A. O. 1950 for "Provincial".

[6] Substituted by Act 64 of 1952, s. 6, for "soldier or person subject to the Indian Territorial Army Act, 1948".

[7] This proviso was inserted by Act 38 of 1920, s. 2 and Schedule I.

[8] Substituted by Act 64 of 1952, s. 6, for "soldier in the Indian Army or any person subject to the Territorial Army Act, 1948".

[9] Substituted by the A. O. 1937 for "G. G. in C.".

Definitions

[1][132A. In this Chapter,—

(*a*) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other armed forces of the Union so operating;

(*b*) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer and a non-commissioned officer].

CHAPTER X.

PUBLIC NUISANCES.

Conditional order for removal of nuisance.

133. (*1*) Whenever a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to

Conditional order for removal of nuisance.

[2][133. (*1*) Whenever a [3][*Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-Divisional Magistrate*] considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

[1] Inserted by Act 64 of 1952, s. 7.

[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 24, for original s. 133.

[3] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the first class".

fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well, or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before himself or some other Magistrate of the first or second class at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

[1][*to appear before himself or some other Executive Magistrate*] at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner hereinafter provided.

(*2*) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A 'public place' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

Service or notification of order.

134. (*1*) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(*2*) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the [2][[3][State] Government] may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim jury.

135. The person against whom such order is made shall—

(*a*) perform, within the time [4][and in the manner] specified in the order, the act directed thereby; or

(*b*) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

Consequence of his failing to do so.

136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code, and the order shall be made absolute. XLV of 1860.

Procedure where he appears to show cause.

137. (*1*) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(*2*) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(*3*) If the Magistrate is not so satisfied, the order shall be made absolute.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "to appear before himself or some other Magistrate of the first or second class".

[2] Substituted by the A. O. 1937 for "L. G.".

[3] Substituted by the A. O. 1950 for "Provincial".

[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 25.

Procedure where he claims jury.

138. (*1*) On receiving an application under section 135 to appoint a jury, the Magistrate shall—

(*a*) forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(*b*) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(*c*) fix a time within which they are to return their verdict.

(*2*) The time so fixed may, for good cause shown, be extended by the Magistrate.

Procedure where jury finds Magistrate's order to be reasonable.

139. (*1*) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(*2*) In other cases no further proceedings shall be taken under this Chapter.

Procedure where existence of public right is denied.

[1][**139A.** (*1*) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel, or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 137 or section 138, inquire into the matter.

(*2*) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 137 or section 138, as the case may require.

(*3*) A person who has, on being questioned by the Magistrate under sub-section (*1*), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any jury appointed under section 138.]

Procedure on order being made absolute.

140. (*1*) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian XLV of 1860. Penal Code.

Consequences of disobedience to order.

(*2*) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(*3*) No suit shall lie in respect of anything done in good faith under this section.

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[1] Section 139A ins. by Act 18 of 1923, s. 26.

Procedure on failure to appoint jury or omission to return verdict.

141. If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140.

Injunction pending inquiry.

142. (*1*) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

(*2*) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(*3*) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

Magistrate may prohibit repetition or continuance of public nuisance.

143. A District Magistrate or Sub-Divisional Magistrate or any other Magistrate empowered by the State Government or the District Magistrate in this behalf may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

XLV of 1860.

Magistrate may prohibit repetition or continuance of public nuisance.

143. [1][*A Presidency Magistrate specially empowered by the State Government in this behalf or a District Magistrate or a Sub-Divisional Magistrate or any Executive Magistrate empowered either by the State Government or the District Magistrate in this behalf*] may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

XLV of 1860.

CHAPTER XI.

TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, Sub-Divisional Magistrate or of any other Magistrate, (not being a Magistrate of the third class) specially empowered by the State Government or the Chief Presidency Magistrate or the District Magistrate to act

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

144. (*1*) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, [2][*the Commissioner of Police*] Sub-Divisional Magistrate, [3][*or of any other Executive Magistrate*] specially empowered by the [4][5][State] Government] or the Chief Presidency Magistrate or the District Magistrate

[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "A District Magistrate or Sub-Divisional Magistrate, or any other Magistrate empowered by the State Government or the District Magistrate in this behalf".

[2] Inserted by Bom. 34 of 1953, s. 5.

[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "or of any other Magistrate (not being a Magistrate of the third class)".

[4] Substituted by the A. O. 1937 for "L. G.".

[5] Substituted by the A. O. 1950 for "Provincial".

under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

to act under this section, [1][there is sufficient ground for proceeding under this section and] immediate prevention or speedy remedy is desirable,

such Magistrate [2][*or the Commissioner of Police*] may, by a written order stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate [2][*or the Commissioner of Police*] considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(*2*) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed, *ex parte*.

(*3*) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(*4*) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(*4*) Any Magistrate may, [1][either on his own motion or on the application of any person aggrieved], rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office. [2][*If the order under this section is made by the Commissioner of Police, the Commissioner of Police may either of his own motion, or on the application of any person aggrieved, rescind or alter such order.*]

(*5*) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before

[3][(*5*) Where such an application is received, the Magistrate [2][*or the Commissioner of Police*] shall afford to the applicant an

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 27.
[2] Inserted by Bom. 34 of 1953, s. 5.
[3] Inserted by Act 18 of 1923, s. 27.

him either in person or by pleader and showing cause against the order ; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

early opportunity of appearing before him either in person or by pleader and showing cause against the order ; and if the Magistrate [4][*or the Commissioner of Police*] rejects the application wholly or in part, he shall record in writing his reasons for so doing.

[3]* * * * * * * *

[3][(*6*)] No order under this section shall remain in force for more than two months from the making thereof ; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the [4][5][State] Government], by notification in the Official Gazette, otherwise directs.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (*1*) Whenever a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute and further requiring them to put in such documents, or to adduce, by putting in affidavits, the evidence of such persons, as they rely upon in support of such claims.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (*1*) Whenever a [6][*Chief Presidency Magistrate*], District Magistrate, Sub-Divisional Magistrate [7][*or any other Executive Magistrate specially empowered by the State Government in this behalf*] is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute [8][and further requiring them to put in such documents, or to adduce, by putting in affidavits, the evidence of such persons, as they rely upon in support of such claims].

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[1] Inserted by Bom. 34 of 1953, s. 5.
[2] Sub-section (*5A*) was deleted by Bom. 71 of 1954, s. 4.
[3] The original sub-section (*5*) was renumbered (*6*) by Act 18 of 1923, s. 27.
[4] Substituted by the A. O. 1937 for "L. G.".
[5] Substituted by the A. O. 1950 for "Provincial".
[6] Inserted by Bom. 34 of 1953, s. 6.
[7] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "or Magistrate of the first class".
[8] Added by Act 26 of 1955, s. 18(*a*).

(*2*) For the purposes of this section the expression " land or water " includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(*3*) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

[1][(*4*) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements, documents and affidavits, if any, so put in, hear the parties and conclude the inquiry, as far as may be practicable, within a period of two months from the date of the appearance of the parties before him and, if possible, decide the question whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject :

Provided that the Magistrate may, if he so thinks fit, summon and examine any person whose affidavit has been put in as to the facts contained therein :

Provided further that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date :

Provided also that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section].

(*5*) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed ; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (*1*) shall be final.

(*6*) If the Magistrate decides that one of the parties was [2][or should under the [3][second proviso] to sub-section (*4*) be treated as being] in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction [2][and when he proceeds under the [3][second proviso] to sub-section (*4*), may restore to possession the party forcibly and wrongfully dispossessed]. Party in possession to retain possession until legally evicted.

[4][(*7*) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto].

[5][(*8*) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(*9*) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

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[1] Substituted by Act 26 of 1955, s. 18(*b*), for the original sub-section (*4*).
[2] Inserted by s. 28, Act 18 of 1923.
[3] Substituted by Act 26 of 1955, s. 18(*c*), for " first proviso ".
[4] Substituted for the original sub-section (*7*) by s. 28, Act 18 of 1923.

(*10*) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.]

Power to attach subject of dispute.

146. [1][(*1*) If the Magistrate is of opinion that none of the parties was then in such possession, or is unable to decide as to which of them was then in such possession, of the subject of dispute, he may attach it, and draw up a statement of the facts of the case and forward the record of the proceeding to a Civil Court of competent jurisdiction to decide the question whether any and which of the parties was in possession of the subject of dispute at the date of the order as explained in sub-section (*4*) of section 145 ; and he shall direct the parties to appear before the Civil Court on a date to be fixed by him :

Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time, if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.

(*1A*) On receipt of any such reference, the Civil Court shall peruse the evidence on record and take such further evidence as may be produced by the parties respectively, consider the effect of all such evidence, and after hearing the parties decide the question of possession so referred to it.

(*1B*) The Civil Court shall, as far as may be practicable, within a period of three months from the date of the appearance of the parties before it, conclude the inquiry and transmit its finding together with the record of the proceeding to the Magistrate by whom the reference was made ; and the Magistrate shall, on receipt thereof, proceed to dispose of the proceeding under section 145 in conformity with the decision of the Civil Court.

(*1C*) The costs, if any, consequent on a reference for the decision of the Civil Court, shall be costs in the proceedings under this section.

(*1D*) No appeal shall li from any finding of the Civil Court given on a reference under this section nor shall any review or revision of any such finding be allowed.

(*1E*) An order under this section shall be subject to any subsequent decision of a Court of competent jurisdiction.]

(*2*) When the Magistrate attaches the subject of dispute, he may, if he thinks fit [2][and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court] appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure :[3] XIV of 1882

[2][Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.]

Disputes concerning rights of use of immoveable property, etc.

147. (*1*) Whenever any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as

Disputes concerning rights of use of immoveable property, etc.

[4][**147.** (*1*) Whenever any District Magistrate, Sub-Divisional Magistrate [5][*or any other Executive Magistrate specially empowered by the State Government in this behalf*] is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists

[1] Substituted by Act 26 of 1955, s. 19, for the original sub-section (*1*).
[2] Inserted by Act 18 of 1923, s. 29.
[3] *See* now the Code of Civil Procedure, 1908 (5 of 1908).
[4] Substituted by Act 18 of 1923, s. 30, for original s. 147.
[5] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "or Magistrate of the first class".

explained in section 145, sub-section (*2*) whether such rights be claimed as an easement or otherwise, within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims and shall thereafter inquire into the matter in the manner hereinafter provided.

regarding any alleged right of user of any land or water as explained in section 145, sub-section (*2*) whether such rights be claimed as an easement or otherwise, within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter [1][in the manner hereinafter provided].

[2][(*1A*) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists and the provisions of section 145 shall, as far as may be, be applicable in the case of such inquiry.]

(*2*) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(*3*) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(*4*) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.]

Local inquiry.

148. (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Sub-Divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

Local inquiry.

148. (*1*) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate, [3][*a Chief Presidency Magistrate*] or Sub-Divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

[1] Substituted by Act 26 of 1955, s. 20 (*a*), for the original portion.
[2] Inserted, *ibid.*, s. 20 (*b*).
[3] Inserted by Bom. 34 of 1953, s. 7.

(2) The report of the person so deputed may be read as evidence in the case.

Order as to costs.

(3) When any costs have been incurred by any party to a proceeding under this Chapter [1]* * * * the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. [2][Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable.]

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

Police to prevent cognizable offences.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures.

153. (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information in cognizable cases.

154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the [3][[4][State] Government] may prescribe in this behalf.

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[1] The words "for witnesses, or pleaders' fees, or both" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 31.

[2] Substituted by section 31, *ibid.*, for "All costs so directed to be paid may be recovered as if they were fines".

[3] Substituted by the A. O. 1937 for "L. G.".

[4] Substituted by the A. O. 1950 for "Provincial".

Information into non-cognizable cases.

155. (*1*) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investigation into non-cognizable cases.

(*2*) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(*3*) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

Investigation into cognizable cases.

156. (*1*) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(*2*) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(*3*) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

Procedure where cognizable offence suspected.

157. (*1*) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report and shall proceed in person, or shall depute one of his subordinate officers [1][not being below such rank as the [2][[3]State] Government] may, by general or special order, prescribe in this behalf] to proceed, to the spot, to investigate the facts and circumstances of the case, [4][and, if necessary, to take measures] for the discovery and arrest of the offender :

Provided as follows :—

Where local investigation dispensed with.

(*a*) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot ;

Where police-officer in charge sees no sufficient ground for investigation.

(*b*) if it appears to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(*2*) In each of the cases mentioned in clauses (*a*) and (*b*) of the proviso to sub-section (*1*), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, [1][and, in the case mentioned in clause (*b*), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the [2] [[3]State] Government], the fact that he will not investigate the case or cause it to be investigated].

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 32.

[2] Substituted by the A. O. 1937 for "L. G.".

[3] Substituted by the A. O. 1950 for "Provincial".

[4] Substituted by Act 18 of 1923, s. 32, for "and to take such measures as may be necessary".

Reports under section 157 how submitted.

158. (*1*) Every report sent to a Magistrate under section 157 shall, if the [1][2][State] Government] so directs, be submitted through such superior officer of police as the [1][2][State] Government], by general or special order, appoints in that behalf.

(*2*) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation or preliminary inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Police-officer's power to require attendance of witnesses.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case ; and such person shall attend as so required :

[3][Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.]

Examination of witnesses by police.

161. (*1*) Any police-officer making an investigation under this Chapter [4][or any police-officer not below such rank as the [1][2][State] Government] may, by general or special order, prescribe in this behalf, acting on the requisition of such officer] may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(*2*) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

[5][(*3*) The police-officer may reduce into writing any statement made to him in the course of an examination under this section, and if he does so he shall make a separate record of the statement, of each such person whose statement he records.]

Statements to police not to be signed ; use of statements in evidence.

[6][**162.** (*1*) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it ; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made :

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by

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[1] Substituted by the A. O. 1937 for "L. G."
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Added by Act 26 of 1955, s. 21.
[4] Inserted by Act 18 of 1923, s. 33.
[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1945 (2 of 1945), s. 2.
[6] Substituted by Act 26 of 1955, s. 22, for the original s. 162.

I of 1872. section 145 of the Indian Evidence Act, 1872, and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1) of the Indian Evidence Act, 1872, or to affect the provisions of section 27 of that Act.]

I of 1872.

163. (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24. No inducement to be offered.

I of 1872.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

164. (1) Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government may, if he is not a police-officer record any statement or confession made to him in the course of an investigation under this Chapter or under any other law for the time being in force or at any time afterwards before the commencement of the inquiry or trial. Power to record statements and confessions.

164. (1) [1][[2]*Any Presidency Magistrate, any District Magistrate, any Sub-divisional Magistrate, any Magistrate of the first class or any other Magistrate specially empowered by the State Government in this behalf*] may, if he is not a police-officer] record any statement or confession made to him in the course of an investigation under this Chapter [3][or under any other law for the time being in force] or at any time afterwards before the commencement of the inquiry or trial. Power to record statements and confessions.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) [4][A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate] shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect :—

"[5][I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 35, for "Every Magistrate not being a police-officer may".

[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government".

[3] Inserted by Act 46 of 1952, s. 4.

[4] Substituted by Act 18 of 1923, s. 35, for "No Magistrate".

[5] Substituted by s. 35, *ibid*, for "I believe".

and I believe] that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.,
Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

Search by police-officer.

165. [1][(*1*) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(*2*) A police-officer proceeding under sub-section (*1*) shall, if practicable, conduct the search in person.]

(*3*) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may [2][after recording in writing his reasons for so doing] require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing [3][specifying the place to be searched, and so far as possible, the thing for which search is to be made]; and such subordinate officer may thereupon search for such thing in such place.

(*4*) The provisions of this Code as to search-warrants [2][and the general provisions as to searches contained in section 102 and section 103] shall, so far as may be, apply to a search made under this section.

[2][(*5*) Copies of any record made under sub-section (*1*) or sub-section (*3*) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

When officer in charge of police-station may require another to issue search warrant.

166. (*1*) An officer in charge of a police-station [4][or a police officer not being below the rank of sub-inspector making an investigation] may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(*2*) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

[4][(*3*) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (*1*) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station

[1] Substituted by Act 18 of 1923, s. 36, for the original sub-sections (*1*) and (*2*).
[2] Inserted by s. 36, *ibid.*
[3] Substituted by s. 36, *ibid*, for "specifying the document or thing for which search is to be made and the place to be searched".
[4] Inserted by s. 37, *ibid.*

or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(*4*) Any officer conducting a search under sub-section (*3*) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 165, sub-sections (*1*) and (*3*).

(*5*) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (*4*) :

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

Procedure when investigation cannot be completed in twenty-four hours.

167. (*1*) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of sub-inspector shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

Procedure when investigation cannot be completed in twenty-four hours.

167. (*1*) Whenever [1][any person is arrested and detained in custody, and it appears that the] investigation [2]* * * cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station [3][or the police-officer making the investigation if he is not below the rank of sub-inspector] shall forthwith transmit to [4][*the nearest Judicial Magistrate*] a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused [5]* * *to such Magistrate.

(*2*) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction :

[6][Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the [7][[8][State] Government] shall authorize detention in the custody of the police.]

(*3*) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 38, for "it appears that any".

[2] The words "under this Chapter" rep. by s. 38, *ibid.*

[3] Inserted by s. 38, *ibid.*

[4] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "the nearest Magistrate".

[5] The words and brackets "(if any)" rep. by Act 18 of 1923, s. 38.

[6] Inserted, *ibid*, s. 38.

[7] Substituted by the A. O. 1937 for "L. G.".

[8] Substituted by the A. O. 1950 for "Provincial".

(*4*) If such order is given by a Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

[1][(*4*) *Any Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge.*]

Report of investigation by subordinate police-officer.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Release of accused when evidence deficient.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station [2][or to the police-officer making the investigation] that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. (*1*) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate, until otherwise directed.

(*2*) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(*3*) If the Court of the District Magistrate or Sub-divisional Magistrate is mentioned in the bond, such court shall be held to include any court to which such Magistrate may refer the case for inquiry or trial provided reasonable notice of such reference is given to such complainant or persons.

[4]* * * *

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for the original sub-section (*4*).
[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 39.
[3] Sub-section (*3*) was deleted by Bom. 23 of 1951, s. 2 and Schedule Part I.
[4] Sub-section (*4*) rep. by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 2.

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be subjected to restraint.

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

172. (1) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Indian Evidence Act, 1872, section 161 or section 145, as the case may be, shall apply.

1 of 1872.

Report of police-officer.

173. [1][(1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police station shall—

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the [2][3][State] Government], setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the [2][3][State] Government], the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.]

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the [2][3][State] Government] by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 40, for the original sub-section (1).

[2] Substituted by the A. O. 1937 for "L. G."

[3] Substituted by the A. O. 1950 for "Provincial".

(*3*) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

[1][(*4*) After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (*1*) and of the first information report recorded under section 154 and of all other documents or relevant extracts thereof, on which the prosecution proposes to rely, including the statements and confessions, if any, recorded under section 164 and the statements recorded under sub-section (*3*) of section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(*5*) Notwithstanding anything contained in sub-section (*4*), if the police officer is of opinion that any part of any statement recorded under sub-section (*3*) of section 161 is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, he shall exclude such part from the copy of the statement furnished to the accused and in such a case, he shall make a report to the Magistrate stating his reasons for excluding such part:

Provided that at the commencement of the inquiry or trial, the Magistrate shall, after perusing the part so excluded and considering the report of the police officer, pass such orders as he thinks fit and if he so directs, a copy of the part so excluded or such portion thereof, as he thinks proper, shall be furnished to the accused.]

Police to inquire and report on suicide, etc.

174. (*1*) The officer in charge of a police-station or some other police-officer specially empowered by the [2][3][State] Government] in that behalf, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests and, unless otherwise directed by any rule prescribed by the [2][3][State] Government], or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(*2*) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(*3*) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as the [2][3][State] Government] may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified

[1] Substituted by Act 26 of 1955, s. 23, for the original sub-section (*4*).
[2] Substituted by the A. O. 1937 for "L. G."
[3] Substituted by the A. O. 1950 for "Provincial".

medical man appointed in this behalf by the [1][[2][State] Government], if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(*4*) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorized to hold inquests.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class and any Magistrate especially empowered in this behalf by the State Government or the District Magistrate.

(*5*) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, [3][Sub-divisional Magistrate [4][or *any Executive Magistrate*] especially empowered in this behalf by the [1][[2][State] Government] or the District Magistrate.

Power to summon persons.

175. (*1*) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(*2*) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (*1*) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (*a*), (*b*) and (*c*) of sub-section (*1*), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(*2*) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

[1] Substituted by the A. O. 1937 for "L. G."

[2] Substituted by the A. O. 1950 for "Provincial".

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 41, for "or Sub-divisional Magistrate".

[4] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "or Magistrate of the first class and any Magistrate".

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the [1][[2][State] Government] may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, [3][or section 107 of the Government of India Act, 1915], [4][or section 224 of the Government of India Act, 1935], [5][or article 227 of the Constitution] or under this Code, section 526.

24 & 2 Vict., c. 104. 5 & 6 Geo. 5, c. 61. 26 Geo. 5 Ch. 2.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y, or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(*d*) A is wounded in [6][the State of Saurashtra], and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

Place of trial where act is offence by reason of relation to other offence.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by the Amending Act, 1916 (13 of 1916), s. 2 and Schedule.
[4] Inserted by the A. O. 1937.
[5] Inserted by the A. O. 1950.
[6] Substituted by the A. O. 1950 for "the Native State of Baroda".

181. (*1*) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is. Being a thug or belonging to a gang of dacoits, escape from custody, etc.

(*2*) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed. Criminal misappropriation and criminal breach of trust.

[1][(*3*) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.] Theft.

(*4*) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained. Kidnapping and abduction.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas. Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage. Offence committed on a journey.

184. All offences against the provisions of any law for the time being in force relating to Railways,[2] Telegraphs,[3] the Post-office[4] or Arms and Ammunition[5] may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not: Offences against Railway, Telegraph, Post Office, and Arms Acts.

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), section 42, for the original sub-section (*3*).

[2] *See* the Indian Railways Act, 1890 (9 of 1890).

[3] *See* the Indian Telegraphs Act, 1885 (13 of 1885).

[4] *See* the Indian Post Office Act, 1898 (6 of 1898).

[5] *See* the Indian Arms Act, 1878 (11 of 1878).

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

[1][185. (*1*) Whenever a question arises as to which of two or more Courts subordinate to the same High Court ought to inquire into or try any offence, it shall be decided by that High Court.

(*2*) Where two or more Courts not subordinate to the same High Court have taken cognizance of the same offence, the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced may direct the trial of such offender to be held in any Court subordinate to it, and if it so decides all other proceedings against such person in respect of such offence shall be discontinued. If such High Court, upon the matter having been brought to its notice, does not so decide, any other High Court, within the local limits of whose appellate criminal jurisdiction such proceedings are pending, may give a like direction, and upon its so doing all other such proceedings shall be discontinued.]

Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

186. (*1*) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government a Magistrate of the first class sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits whether within or without India an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force, triable in India, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

186. (*1*) When a Presidency Magistrate, [2][*or a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court*], sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without [3][India]) an offence which cannot, under the provisions of sections 177 to 184 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in [3][India], such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 43, for the original s. 185.

[2] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "a District Magistrate, a Sub-Divisinal Magistrate, or if he is specially empowered in this behalf by the State Government, a Magistrate of the first class".

[3] The words "British India" have successively been subs. by the A. O. 1937, A. O. 1950 and Act I of 1951 to read as above.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

Procedure where warrant issued by subordinate Mag.strate.

187. (*1*) If the person has been arrested under a warrant issued under section 186, by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

Procedure where warrant issued by subordinate Mag.strate.

187. (*1*) If the person has been arrested under a warrant issued under section 186 [1][*the Magistrate issuing the warrant shall send the person arrested to the Sessions Judge*] to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

Liability of Indian citizens for offences committed out of India.

188. [2][When an offence is committed by—

(*a*) any citizen of India in any place without and beyond India ; or

(*b*) any person on any ship or aircraft registered in India, wherever it may be],

he may be dealt with in respect of such offence as if it had been committed at any place within [3][India] at which he may be found :

Political Agents to certify fitness of inquiry into charge.

Provided that [4][notwithstanding anything in any of the preceding sections of this Chapter] no charge as to any such offence shall be inquired into in [3][India] unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his opinion, the charge ought to be inquired into in [3][India] ; and where there is no Political Agent, the sanction of the [5][[6][*State*] *Government*] shall be required.

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in [3][India] shall be a bar to further proceedings against him under [7][the Indian Extradition Act, 1903], in respect of the same offence in any territory beyond the limits of [3][India].

XV of 1903.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-Divisional Magistrate".

[2] Substituted by the A. O. 1950 for the portion commencing with "When a British subject domiciled in India" and ending with "registered in the Provinces wherever it may be".

[3] The words "British India" have successively been subs. by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 44.

[5] Substituted by the A. O. 1937 for "L. G.".

[6] Substituted by the A. O. 1950 for "Provincial".

[7] Substituted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Schedule I, for "the Foreign Jurisdiction and Extradition Act, 1879".

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the [1][2][State] Government] may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

B.—Conditions requisite for initiation of proceedings.

Cognizance of offences by Magistrates.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate and any other Magistrate specially empowered in this behalf may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a report in writing of such facts made by any police-officer;

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The State Government or the District Magistrate subject to the general or special orders of the State Government may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*) or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The State Government may empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

Cognizance of offences by Magistrates.

190. (*1*) Except as hereinafter provided, any Presidency Magistrate [3]* * * * and [4][*any Judicial*] Magistrate specially empowered [5][*in that behalf under section 37*] may take cognizance of any offence—

(*a*) upon receiving a complaint of facts which constitute such offence;

[6][(*b*) upon a report in writing of such facts made by any police-officer;]

(*c*) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(*2*) The [1][2][State] Government] [7]* * * may empower any Magistrate to take cognizance under sub-section (*1*), clause (*a*), or clause (*b*), of offences for which he may try or commit for trial.

(*3*) The [1][2][State] Government] may [8][*in consultation with the High Court*] empower any Magistrate of the first or second class to take cognizance under sub-section (*1*), clause (*c*), of offences for which he may try or commit for trial.

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[1] Substituted by the A. O. 1937 for "L. G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] The words "District Magistrate or Sub-Divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[4] Substituted, *ibid*, for "any other".

[5] Substituted by Bom. 34 of 1953, s. 8, for "in this behalf by the State Government in consultation with the High Court".

[6] Substituted by Act 18 of 1923, s. 45, for the original clause (*b*).

[7] The words ", or the District Magistrate subject to the general or special orders of the State Government" were deleted by Bom. 23 of 1951, s. 2 and Schedule Part I.

[8] Inserted, *ibid*.

191. When a Magistrate takes cognizance of an offence under sub-section (*1*), clause (*c*), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate. Transfer or commitment on application of accused.

192. (*1*) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(*2*) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

192. (*1*) Any Chief Presidency Magistrate [1]* * * may transfer any case, of which he has taken cognizance, for inquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(*2*) [2][*A Sessions Judge*] may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate [3][*in the sessions division*] who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

[4][(*3*) *Any District Magistrate or Sub-Divisional Magistrate may transfer any case of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him and such Magistrate may dispose of the case accordingly.*]

193. (*1*) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf. Cognizance of offences by Courts of Session.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the State Government by general or special order may direct them to try, or as the Sessions Judge of the division, by general or special order, may make over to them for trial.

(*2*) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the [5][[6][State] Government] [7][*in consultation with the High Court*] by general or special order may direct them to try, or [8]* * as the Sessions Judge of the division, by general or special order, may make over to them for trial.

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[1] The words ", District Magistrate or Sub-divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[2] Substituted, *ibid.*, for "Any District Magistrate".
[3] Substituted, *ibid.*, for "in his district".
[4] Inserted by Bom. 8 of 1954, s. 2, Sch.
[5] Substituted by the A. O. 1937 for "L. G.".
[6] Substituted by the A. O. 1950 for "Provincial".
[7] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[8] The words "in the case of Assistant Sessions Judges" rep. by Act 18 of 1923, s. 46.

Cognizance of offences by High Court.

194. (*1*) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided.

[1][Nothing herein contained shall be deemed to affect the provisions of any letters patent or [2][law] by which a High Court is constituted or continued, or any other provision of this Code.]

Informations by Advocate General.

(*2*) (*a*) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of [3]* * the [4][[5]State] Government], exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney General may exhibit informations on behalf of the Crown in the High Court of Justice in England.

(*b*) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

(*c*) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information [6][shall form part of the revenues of the [7][State].

(*d*) The High Court may make rules for carrying into effect the provisions of this section.

Prosecution for contempt of lawful authority of public servants.

195. [8][(*1*) No Court shall take cognizance—

(*a*) of any offence punishable under sections 172 to 188 of the Indian Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate; XLV of 1860.

Prosecution for certain offences against public justice.

(*b*) of any offence punishable under any of the following sections of the same Code, namely, sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution for certain offences relating to documents given in evidence.

(*c*) of any offence described in section 463 or punishable under section 471, section 475 or section 476 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.]

(*2*) In clauses (*b*) and (*c*) of sub-section (*1*), the term "Court" [9][includes] a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877 [10]. III of 1877.

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[1] Substituted by the A. O. 1950 for the original paragraph.
[2] Substituted by Act 1 of 1951, s. 10, for "order".
[3] The words "the G. G. in C. or" rep. by the A. O. 1937.
[4] Substituted by the A. O. 1937 for "L. G."
[5] Substituted by the A. O. 1950 for "Provincial".
[6] Substituted by the A. O. 1937 for "shall belong to the G. of I."
[7] Substituted by the A. O. 1950 for "Province".
[8] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 47, for the original sub-section (*1*).
[9] Substituted, *ibid.*, s. 47, for "means".
[10] *See* now the Indian Registration Act, 1908 (16 of 1908).

[1][(3) For the purposes of this section, a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within the local limits of whose jurisdiction such Civil Court is situate :

Provided that—

(*a*) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate ; and

(*b*) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.]

[2][(4)] The provisions of sub-section (*1*), with reference to the offences named therein, apply also to [3][criminal conspiracies to commit such offences and to] the abetment of such offences, and attempts to commit them.

[4][(5) Where a complaint has been made under sub-section (*1*), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.]

Prosecution for offences against the State.

196. No Court shall take cognizance of any offence punishable under Chapter VI [5][or IXA] of the Indian Penal Code (except section 127 [6][and section 171F, so far as it relates to the offence of personation]) or punishable under section 108A, or section 153A, or section 294A, [7][or section 295A] or section 505 of the same Code unless upon complaint made by order of, or under authority from, [8][the [9][State] Government or some officer empowered by the [9][State] Government] in this behalf.

XLV of 1860.

Prosecution for certain classes of criminal conspiracy.

[10][196A. No Court shall take cognizance of the offence of criminal conspiracy punishable under section 120B of the Indian Penal Code,

(*1*) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 196 apply, unless upon complaint made by order or under authority from [8][the [9][State] Government or some officer empowered by the [9][State] Government] in this behalf, or

XLV of 1860.

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[1] Substituted by Act 18 of 1923, s. 47, for the original sub-section (*7*) which was renumbered (*3*) by the same Act.

[2] The original sub-section (*3*) was re-numbered (*4*) by s. 47, *ibid.*

[3] Ins. by the Criminal Law Amendment Act, 1913 (8 of 1913), s. 4.

[4] The original sub-sections (*4*), (*5*) and (*6*) were repealed, and the new sub-section (*5*) was inserted by Act 18 of 1923, s. 47.

[5] Inserted by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 3.

[6] Inserted by Act 43 of 1951, s. 138 (see also Bom. 29 of 1935, s. 2).

[7] Inserted by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.

[8] Substituted by the A. O. 1937 for "the G. G. in C., the L. G., or some officer empowered by the G. G. in C."

[9] Substituted by the A. O. 1950 for "Provincial".

[10] S. 196A was inserted by the Criminal Law Amendment Act, 1913 (8 of 1913), s. 5.

(*2*) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, [1][imprisonment for life] or rigorous imprisonment for a term of two years or upwards, unless the [2][[3][State] Government], or a Chief Presidency Magistrate or District Magistrate empowered in this behalf by the [2][3][State] Government], has, by order in writing, consented to the initiation of the proceedings :

Provided that where the criminal conspiracy is one to which the provisions of sub-section [4][(*4*)] of section 195 apply no such consent shall be necessary.]

Preliminary inquiry in certain cases.

[5][**196B.** In the case of any offence in respect of which the provisions of section 196 or section 196A apply, a District Magistrate or Chief Presidency Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 155, sub-section (*3*).]

Prosecution of Judges and public servants.

197. [6][(*1*) When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a [2][3][State] Government] or [7][the Central Government], is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the [8][previous sanction— XLV of 1860.

[9][(*a*) in the case of a person employed in connection with the affairs of the Union, of the Central Government ; and

(*b*) in the case of a person employed in connection with the affairs of a State, of the State Government.] .] .].

Power of Central or State Governments as to prosecution.

(*2*) [10][[11]The Central Government or the State Government], as the case may be, [12]* * * * may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge, [13][Magistrate] or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution of Rulers of former Indian States.

[15][**197A.** (*1*) In this section—

(*a*) "former Indian State" means any such Indian State as the Central Government may, by notification in the Official Gazette, specify for the purposes of this section ;

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[1] Substituted by Act 26 of 1955, s. 24, for "transportation".
[2] Substituted by the A. O. 1937 for "L.G."
[3] Substituted by the A. O. 1950 for "Provincial".
[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 48, for "(*3*)".
[5] S. 196B was inserted by s. 49, *ibid.*
[6] Substituted by s. 50, *ibid.*, for the original sub-section (*1*).
[7] Substituted by the A. O. 1948 for "some higher authority".
[8] Substituted by the A. O. 1937 for "previous sanction of the L. G.".
[9] Substituted by the A. O. 1950 for the original clauses (*a*) and (*b*).
[10] Substituted by the A. O. 1937 for "such Government".
[11] Substituted by the A. O. 1950 for "the Governor General or Governor".
[12] The words "exercising his individual judgment" repealed by the A. O. 1947.
[13] Inserted by Act 18 of 1923, s. 50.
[14] Sub-section (*3*), ins. by the A. O. 1937, repealed by the A. O. 1948.
[15] Inserted by Act 1 of 1951, s. 11.

(*b*) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.

(*2*) No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government.

(*3*) The provisions of sub-section (*2*) of section 197 shall apply in relation to the prosecution and trial of the Ruler of a former Indian State as they apply in relation to the prosecution and trial of a Judge.]

Prosecution of Commissioner appointed by Civil Court.

[1][**197AA.** *When any person, who is a Commissioner appointed by a Court under the provisions of the Code of Civil Procedure, 1908, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his functions as Commissioner, no Court shall take cognizance of such offence except with the previous sanction of the Court, which appointed such person as Commissioner.*]

V of 1908.

Prosecution for breach of contract, defamation and offences against marriage.

XLV of 1860. **198.** No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence:

[2][Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf:]

[3][Provided further that where the husband aggrieved by an offence under section 494 of the said Code is serving in any of [4][the Armed Forces of the Union] under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (*1*) of section 199B may, with the leave of the Court, make a complaint on his behalf.]

Prosecution for offence of marital misbehaviour.

XLV of 1860. [5][**198A.** No Court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse by a man with his own wife, the wife being under fifteen years of age,—

(*i*) if more than one year has elapsed from the date of the commission of the offence,

(*ii*) in the case of any marriage which has taken place before the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949, [6]came into force, if the wife was not under thirteen years of age on the date of the marriage.]

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[1] Inserted by Bom. 20 of 1951, s. 2, read with Bom. 39 of 1951, s. 3 and Second Schedule.
[2] Inserted by Act 18 of 1923, s. 51.
[3] Inserted by Act 28 of 1943, s. 2.
[4] Substituted by the A. O. 1950 for "His Majesty's armed forces".
[5] Inserted by Act 42 of 1949, s. 4.
[6] 15th July 1949.

Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions.

[1][198B. (*1*) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (other than the offence of defamation by spoken words) is alleged to have been committed against the President, or the Vice-President, or the Governor or Rajpramukh of a State, or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State, in respect of his conduct in the discharge of his public functions, a Court of Session may take cognizance of such offence, without the accused being committed to it for trial, upon a complaint in writing made by the Public Prosecutor. XLV of 1860.

(*2*) Every such complaint shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(*3*) No complaint under sub-section (*1*) shall be made by the Public Prosecutor except with the previous sanction,—

(*a*) in the case of the President or the Vice-President or the Governor or Rajpramukh of a State, of any Secretary to the Government authorised by him in this behalf;

(*b*) in the case of a Minister of the Central Government or of a State Government, of the Secretary to the Council of Ministers, if any, or of any Secretary to the Government authorised in this behalf by the Government concerned;

(*c*) in the case of any other public servant employed in connection with the affairs of the Union or of a State, of the Government concerned.

(*4*) No Court of Session shall take cognizance of an offence under sub-section (*1*) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(*5*) When the Court of Session takes cognizance of an offence under sub-section (*1*), then, notwithstanding anything contained in this Code, the Court of Session shall try the case without a jury and in trying the case, shall follow the procedure prescribed for the trial by Magistrates of warrant cases instituted otherwise than on a police report and the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded otherwise directs, be examined as a witness for the prosecution.

(*6*) If in any case instituted under this section, the Court of Session by which the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court of Session may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor or Rajpramukh of a State) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(*7*) The Court of Session shall record and consider any cause which may be shown by the person so directed and if it is satisfied that the accusation was false and either frivolous or vexatious, it may, for reasons to be recorded, direct that compensation to such amount, not exceeding one thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(*8*) All compensation awarded under sub-section (*7*) may be recovered as if it were a fine.

[1] Inserted by Act 26 of 1955, s. 25.

(*9*) No person who has been directed to pay compensation under sub-section (*7*) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(*10*) The person who has been ordered under sub-section (*7*) to pay compensation may appeal from the order, in so far as the order relates to the payment of the compensation, as if he had been convicted in a trial held by the Court of Session.

(*11*) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (*10*), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(*12*) For the purposes of this section, the expression "Court of Session" includes the High Courts at Calcutta and Madras in the exercise of their original criminal jurisdiction.

(*13*) The provisions of this section shall be in addition to, and not in derogation of those of section 198.]

Prosecution for adultery or enticing a married woman.

XLV of 1860.

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code, except upon a complaint made by the husband of the woman; or, in his absence, [1][made with the leave of the Court] by some person who had care of such woman on his behalf at the time when such offence was committed.

[1][Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf:]

[2][Provided further that where such husband is serving in any of [3][the Armed Forces of the Union] under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorised by the husband in accordance with the provisions of sub-section (*1*) of section 199B may, with the leave of the Court, make a complaint on his behalf.]

Objection by lawful guardian to complaint by person other than person aggrieved.

[4][**199A.** When in any case falling under section 198 or section 199, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him reasonable opportunity of objecting to the granting thereof.]

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[1] Inserted by Act 18 of 1923, s. 52.
[2] Inserted by the Code of Criminal Procedure (Second Amendment) Act, 1943 (28 of 1943), s. 3.
[3] Substituted by the A. O. 1950 for "His Majesty's armed forces".
[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 53.

Form of authorisation under second proviso to section 198 or 199.

[1][199B. (*1*) The authorisation of a husband given to another person to make a complaint on his behalf under the second proviso to section 198 or the second proviso to section 199 shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by the Officer referred to in the said provisos, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(*2*) Any document purporting to be such an authorisation and complying with the provisions of sub-section (*1*), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine, and shall be received in evidence.]

CHAPTER XVI.

OF COMPLAINTS TO MAGISTRATES.

Examination of complainant.

200. [2]* * * A Magistrate taking cognizance of an offence on complaint shall at once [3][examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses], and also by the Magistrate:

Provided as follows:—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192;

[4][(*aa*) when the complaint is made in writing nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;]

(*b*) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and [5][where the complaint is made in writing] need not be reduced to writing; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing;

(*c*) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (*1*) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(*2*) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement for issue of process.

202. [6][(*1*) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 192, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained

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[1] Inserted by Act 28 of 1943, s. 4.
[2] The words and figures "Subject to the provisions of section 476" rep. by Act 18 of 1923, s. 54.
[3] Substituted by Act 26 of 1955, s. 26, for the original portion.
[4] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 54.
[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 3.
[6] Substituted by Act 18 of 1923, s. 55, for the original sub-section (*1*).

against, and either inquire into the case himself or, if he is a Magistrate other than a Magistrate of the third class, direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint:

[1][Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200.]]

[2][(*2*) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.]

[3][(*2A*) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.]

(*3*) This section applies also to the police in the towns of Calcutta and Bombay.

Dismissal of complaint.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, [4][after considering the statement on oath (if any) of the complainant [5][and the witnesses] and the result of [6][the investigation] or inquiry [7][(if any)] under section 202], there is in his judgment no sufficient ground for proceeding. In such cases he shall briefly record his reasons for so doing.

CHAPTER XVII.

Of the Commencement of Proceedings before Magistrates.

Issue of process.

204. (*1*) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

[8][(*1A*) No summons or warrant shall be issued against the accused under sub-section (*1*) until a list of the prosecution witnesses has been filed.

(*1B*) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (*1*) shall be accompanied by a copy of such complaint.]

(*2*) Nothing in this section shall be deemed to affect the provisions of section 90.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 4, for the former proviso.

[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 55, for the original sub-section (*2*).

[3] Inserted by s. 55, *ibid.*

[4] Substituted by s. 55, *ibid.*, for "after examining the complainant and considering the result of the investigation (if any) made under s. 202".

[5] Inserted by Act 26 of 1955, s. 27.

[6] Substituted by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 5, for "any investigation".

[7] Inserted by s. 5, *ibid.*

[8] Inserted by Act 26 of 1955, s. 28.

(*3*) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (*1*) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(*2*) But the Magistrate inquiring into or trying the case may, in his discretion at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. (*1*) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

Power to commit for trial.

206. (*1*) [1]* * * Any Presidency Magistrate [2]* * * * * or Magistrate the first class, or any Magistrate [3][(not being a Magistrate of the third class)] empowered in this behalf by the [4][[5][State] Government], [6][*in consultation with the High Court*], may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(*2*) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

[7][**207.** In every inquiry before a Magistrate where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court, the Magistrate shall,—

(*a*) in any proceeding instituted on a police report, follow the procedure specified in section 207A ; and

(*b*) in any other proceeding, follow the procedure specified in the other provisions of this Chapter.

Procedure to be adopted in proceedings instituted on police report.

207A. (*1*) When, in any proceeding instituted on a police report, the Magistrate receives the report forwarded under section 173, he shall, for the purpose of holding an inquiry under this section, fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate, for reasons to be recorded fixes any later date.

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[1] The words and figures " Subject to the provisions of section 443 " rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 9.

[2] The words " District Magistrate, Sub-divisional Magistrate " were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 57.

[4] Substituted by the A. O. 1937 for " L. G. "

[5] Substituted by the A. O. 1950 for " Provincial ".

[6] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[7] Ss. 207 and 207A were substituted by Act 26 of 1955, s. 29, for the original s. 207.

(2) If, at any time before such date, the officer conducting the prosecution applies to the Magistrate to issue a process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(3) At the commencement of the inquiry, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that the documents referred to in section 173 have been furnished to the accused and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be so furnished.

(4) The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged ; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also.

(5) The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them.

(6) When the evidence referred to in sub-section (4) has been taken and the Magistrate has considered all the documents referred to in section 173 and has, if necessary, examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him and given the prosecution and the accused an opportunity of being heard, such Magistrate shall, if he is of opinion that such evidence and documents disclose no grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(7) When, upon such evidence being taken, such documents being considered, such examination (if any) being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that the accused should be committed for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

(8) As soon as such charge has been framed, it shall be read and explained to the accused and a copy thereof shall be given to him free of cost.

(9) The accused shall be required at once to give in, orally or in writing, a list of the persons, if any, whom he wishes to be summoned to give evidence on his trial :

Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time ; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.

(10) When the accused, on being required to give in a list under sub-section (9), has declined to do so, or when he has given in such list, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session, as the case may be, and shall also record briefly the reasons for such commitment.

(11) When the accused has given in any list of witnesses under sub-section (9) and has been committed for trial, the Magistrate shall summon the witnesses included in the list to appear before the Court to which the accused has been committed :

Provided that where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the State and such witnesses may be summoned accordingly :

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

(*12*) Witnesses for the prosecution, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon by the Court of Session or High Court to give evidence.

(*13*) If any witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court as the case may be.

(*14*) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge ; and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or where the commitment is made to the High Court, to the Clerk of the State or other officer appointed in this behalf by the High Court.

(*15*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

(*16*) Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody.]

Taking of evidence produced.

208. (*1*) [1][In any proceeding instituted otherwise than on a police report, the Magistrate shall] when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(*2*) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production of further evidence.

(*3*) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(*4*) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged.

209. (*1*) When the evidence referred to in section 208, sub-sections (*1*) and (*3*), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and dischrage him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

[1] Substituted by Act 26 of 1955, s. 30, for "The Magistrate ".

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (*1*) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished, to accused.

(*2*) As soon as [1][such charge] has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211. (*1*) The accused shall be required at once to give in orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial

Further list.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time ; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the [2][Clerk of the State] a further list of the persons whom he wishes to be summoned to give evidence on such trial

Power of Magistrate to examine such witnesses.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

Order of commitment.

213. (*1*) When the accused, on being required to give in alist under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

(*2*) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

214. [*Person charged outside presidency-towns jointly with European British subject.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 10.*

Quashing commitments under section 213.

215. A commitment once made under section 213 [3]* * * by a competent Magistrate [4]* * * or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Summons to witnesses for defence when accused is committed.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magisrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed :

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the [2][Clerk of the State], and such witnesses may be summoned accordingly :

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 53, for " the charge ".

[2] Substituted by the A. O. 1950 for " Clerk of the Crown ".

[3] The words and figures " or section 214 " rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 11.

[4] The words and figures " or by a Court of Session under section 477 " rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 59.

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the [1][2][State] Government] in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court to the [3][Clerk of the State] or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses.

219. (*1*) [4][The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206] may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(*2*) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall [5][be given to the accused free of cost].

Custody of accused pending trial.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant, to custody.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted, *ibid.*, for "Clerk of the Crown".
[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 60, for "The Magistrate".
[5] Substituted by s. 60, *ibid.*, for "if the accused so require, be given to him free of cost".

CHAPTER XIX.

OF THE CHARGE.

Form of Charges.

221. (*1*) Every charge under this Code shall state the offence with which the accused is charged. Charge to state offence.

(*2*) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only. Specific name of offence sufficient description.

(*3*) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged. How stated where offence has no specific name.

(*4*) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(*5*) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case. What implied in charge.

(*6*) In the presidency-towns the charge shall be written in English; elsewhere it shall be written either in English or in the language of the Court. Language of charge.

(*7*) If the accused [1][having been previously convicted of any offence, is liable, by reason of such previous conviction to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence,] the fact, date and place of the previous conviction shall be stated in the charge. If such statement [2][has been omitted,] the Court may add it at any time before sentence is passed. Previous conviction when to be set out.

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception apply to it. XLV of 1860.

(*b*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grevious hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it. XLV of 1860.

(*c*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code: but the sections under which the offence is punishable must, in each instance, be referred to in the charge. XLV of 1860.

(*d*) A is charged, under section 184 of the Indian Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public-servant. The charge should be in those words. XLV of 1860.

222. (*1*) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged. Particulars as to time, place and person.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 61, for "has been previously convicted of any offence and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award,".

[2] Substituted by s. 61, *ibid.*, for "is omitted".

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234 :

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge taken in sense of law under which offence it punishable.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations.

(*a*) A is charged under section 242 of the Indian Penal Code, with " having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word " fraudulently " being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material. XLV of 1860.

(*b*) A is charged with cheating B and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. The e were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case a material error.

(*d*) A is charged with the murder of Khoda Baksh on the 21st January 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January 1882, and Khoda Baksh (who tried to arrest him for that murder), on the 21st January 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh,. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the [1][Clerk of the State] may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges. Procedure on commitment without charge or with imperfect charge.

Illustrations.

1. A is charged with the murder of C. A charge of abetting the murder of C may be added or substituted.

XLV of 1860. 2. A is charged with forging a valuable security under section 467 of the Indian Penal Code. A charge of fabricating false evidence under section 193 may be added.

XLV of 1860. 3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code cannot be added.

227. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials [2][by jury] before the Court of Session or High Court, before the verdict of the jury is returned [3]* * *. Court may alter charge.

(*2*) Every such alteration or addition shall be read and explained to the accused.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge. When trial may proceed immediately after alteration.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary. When new trial may be directed, or trial suspended.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded. Stay of proceedings if prosecution of offence in altered charge require previous sanction.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to re-call or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material. Recall of witnesses when charge altered.

232. (*1*) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit. Effect of material error.

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[1] Substituted by the A. O. 1950 for "Clerk of the Crown".
[2] Inserted by Act 26 of 1955, s. 31(*i*).
[3] The words "or the opinions of the assessors are expressed" were omitted by Act 26 of s. 31 (*ii*).

(*2*) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence, under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction. XLV of 1860.

Joinder of Charges.

Separate charges for distinct offences.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 236 and 239.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

Three offences of same kind within year may be charged together.

234. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, [1][whether in respect of the same person or not], he may be charged with, and tried at one trial for, any number of them not exceeding three.

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code or of any special or local law: XLV of 1860.

[1][Provided that, for the purpose of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the Indian Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.] XLV of 1860. XLV of 1860.

Trial for more than one offence.

235. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Offence falling within two definitions.

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts constituting one offence, but constituting when combined a different offence.

(*3*) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(*4*) Nothing contained in this section shall affect the Indian Penal Code, section 71. XLV of 1860.

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 62.

Illustrations.

to sub-section (1)—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code.

(*b*) A commits house-breaking by day with intent to commit adultery, and commits in the house so entered adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(*g*) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to sub-section (2)—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

to sub-section (3)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustrations.

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

When a person is charged with one offence he can be convicted of another.

237. (*1*) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

[1]* * * * * * * *

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence.

When offence proved included in offence charged.

238. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

[2][(*2A*) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.]

(*3*) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

Illustrations.

(*a*) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a career. He may be convicted of criminal breach of trust under section 406.

(*b*) A is charged, under section 325 of the Indian Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly.

[3]**239.** The following persons may be charged and tried together, namely :—

(*a*) persons accused of the same offence committed in the course of the same transaction ;

(*b*) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence ;

(*c*) persons accused of more than one offence of the same kind, within the meaning of section 234 committed by them jointly within the period of twelve months ;

(*d*) persons accused of different offences committed in the course of the same transaction ;

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[1] Sub-section (*2*) rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 63.
[2] Inserted by s. 64, *ibid.*
[3] Substituted by s. 65, *ibid.*, for the original s. 239.

(*e*) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence ;

XLV of 1860. (*f*) persons accused of offences under sections 411 and 414 of the Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence ; and

XLV of 1860. (*g*) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence ;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.]

Withdrawal of remaining charges on conviction on one of several charges.

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

Procedure in summons-cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted ; but it shall not be necessary to frame a formal charge.

Conviction on admission of truth of accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him ; and, if he shows no sufficient cause why he should not be convicted, the Magistrate [1][may convict] him accordingly.

Procedure when no such admission is made.

244. (*1*) [2][If the Magistrate does not convict the accused under the preceding section or] if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence :

[2][Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.]

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 66, for "shall convict".

[2] Inserted by s. 67, *ibid.*

(*2*) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue [1][a summons to witness directing him to attend or to produce] any document or other thing.

(*3*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (*1*) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Sentence.

[2][(*2*) Where the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.]

Finding not limited by complaint or summons.

246. A Magistrate may, under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Non-appearance of complainant.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day :

[3][Provided that where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may dispense with his attendance, and proceed with the case.]

Withdrawal of complaint.

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Power to stop proceedings when no complainant.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

Power to stop proceedings when no complainant.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, [4][*or any other Judicial Magistrate specially empowered in this behalf by the State Government in consultation with the High Court*], may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

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[1] Substituted by Act 18 of 1923, s. 67, for "process to compel the attendance of any witness or the production of".

[2] Substituted by s. 68, *ibid.*, for the original sub-section (*2*).

[3] Substituted by Act 26 of 1955, s. 32, for the original proviso.

[4] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "or with the previous sanction of the District Magistrate, any other Magistrate".

Frivolous Accusations in Summons and Warrant Cases.

False, frivolous or vexatious accusations.

250. [1][(*1*) If in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation, to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid.

(*2*) The Magistrate shall record and consider any cause which such complainant or information may show and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded, direct that compensation to such amount not exceeding [2][one-half of the amount of fine he is empowered to impose], as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(*2A*) The Magistrate may, by the order directing payment of the compensation under sub-section (*2*), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

XLV of 1860. (*2B*) When any person is imprisoned under sub-section (*2A*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(*2C*) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.]

(*3*) A complainant or informant who has been ordered under [3][sub-section (*2*)] by a Magistrate of the second or third class to pay compensation [4][or has been so ordered by any other Magistrate to pay compensation exceeding fifty rupees] may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(*4*) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided [5][and, where such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one month from the date of the order.]

[6]* * * * * * *

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[1] Sub-sections (*1*) to (*2C*) were subs. for the original sub-sections (*1*) and (*2*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 69.

[2] Substituted by Act 26 of 1955, s. 33, for the original portion.

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 69, for "sub-section (*1*)".

[4] Substituted by s. 69, *ibid.*, for "to an accused person".

[5] Inserted by s. 69, *ibid.*

[6] Sub-section (*5*) rep. by s. 69, *ibid.*

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant cases.

[1][**251.** In the trial of warrant cases by Magistrates, the Magistrate shall,—

(*a*) in any case instituted on a police report, follow the procedure specified in section 251A ; and

(*b*) in any other case, follow the procedure specified in the other provisions of this Chapter.

Procedure to be adopted in cases instituted on police report.

251A. (*1*) When, in any case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, such Magistrate shall satisfy himself that the documents referred to in section 173 have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished.

(*2*) If, upon consideration of all the documents referred to in section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge him.

(*3*) If, upon such documents being considered, such examination, if any, being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(*4*) The charge shall then be read and explained to the accused and he shall be asked whether he is guilty or claims to be tried.

(*5*) If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

(*6*) If the accused refuses to plead, or does not plead, or claims to be tried, the Magistrate shall fix a date for the examination of witnesses.

(*7*) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution :

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined, or recall any witness for further cross-examination.

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[1] Ss 251 and 251A were substituted by Act 26 of 1955, s. 34, for the original s. 251.

(*8*) The accused shall then be called upon, to enter upon his defence and produce his evidence ; and if the accused puts in any written statement, the Magistrate shall file it with the record.

(*9*) If the accused after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing :

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*10*) The Magistrate may, before summoning any witness on such application under sub-section (*9*), require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in court.

(*11*) If, in any case under this section in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(*12*) Where in any case under this section, the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon according to law.

(*13*) In a case where a previous conviction is charged under the provisions of section 221, sub-section (*7*), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under sub-section (*5*) or sub-section (*12*), take evidence in respect of the alleged previous convicion, and shall record a finding thereon.]

252. (*1*) [1][In any case instituted otherwise than on a police report, when the accused appears] or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution :

[2][Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.]

(*2*) The Magistrate shall ascertain, from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

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[1] Substituted by Act 26 of 1925, s. 35, for the original portion.

[2] Inserted by Act 18 of 1923, s. 70.

Discharge of accused.

253. (*1*) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

Charge to be framed when offence appears proved.

254. If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion could be adequately punished by him, he shall frame in writing a charge against the accused.

Plea.

255. (*1*) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(*2*) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

Procedure in case of previous convictions.

[1][**255A.** In a case where a previous conviction is charged under the provisions of section 221, sub-section (*7*), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 255, sub-section (*2*), or section 258, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.]

Defence.

256. (*1*) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state, [2][at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith], whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(*2*) If the accused puts in any written statement, the Magistrate shall file it with the record.

Process for compelling production of evidence at instance of accused.

257. (*1*) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 71.

[2] Inserted by s. 72, *ibid.*

that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(*2*) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

258. (*1*) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal. Acquittal.

[1][(*2*) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 349 or section 562, he shall, if he finds the accused guilty, pass sentence upon him according to law.] Conviction.

259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, [2][or is not a cognizable offence,] the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused. Absence of complainant.

CHAPTER XXII.

OF SUMMARY TRIALS.

260. (*1*) Notwithstanding anything contained in this Code,— Power to try summarily.

(*a*) the District Magistrate,

(*b*) any Magistrate of the first class specially empowered in this behalf by the State Government, and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class

260. (*1*) Notwithstanding anything contained in this Code— Power to try summarily.

[3]* * *

(*b*) any Magistrate of the first class specially empowered in this behalf by the [4][[5][State] Government] [6][*in consultation with the High Court,*] and

(*c*) any Bench of Magistrates invested with the powers of a Magistrate of the first class

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 73, for original sub-sec. (*2*).
[2] Inserted by s. 74, *ibid.*
[3] The clause "(*a*) The District Magistrate," was deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[4] Substituted by the A. O. 1937 for "L. G.".
[5] Substituted by the A. O. 1950 for "Provincial".
[6] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

and specially empowered in this behalf by the State Government,

may, if he or they think fit, try in a summary way all or any of the following offences :—

(*a*) offences not " punishable with death, [imprisonment for life] or imprisonment for a term exceeding six months ;

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code ; XLV of 1860.

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed [two hundred rupees] ;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed [two hundred rupees] ;

(*f*) receiving or retaining stolen property under section 411 of the same Code, where the value of such property does not exceed [two hundred rupees] ;

(*g*) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed [two hundred rupees] ;

(*h*) mischief, under section 427 of the same Code ;

(*i*) house-trespass, under section 448, and offences under sections 451, 453, 454, 456 and 457 of the same Code ;

and specially empowered in this behalf by the [1][2][State] Government], [3][*in consultation with the High Court*],

may, if he or they think fit, try in a summary way all or any of the following offences :—

(*a*) offences not punishable with death, [4][imprisonment for life] or imprisonment for a term exceeding six months ;

(*b*) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code ; XLV of 1860.

(*c*) hurt, under section 323 of the same Code ;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed [5][two hundred rupees] ;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed [5][two hundred rupees] ;

(*f*) receiving or retaining stolen property under section 411 of the same code, where the value of such property does not exceed [5][two hundred rupees] ;

(*g*) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed [5][two hundred rupees] ;

(*h*) mischief, under section 427 of the same Code ;

(*i*) house-trespass, under section 448 , and offences under sections 451, [6][453, 454], 45 and 457 of the same Code

[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[4] Substituted by Act 26 of 1955, s. 36 (*a*), for "transportation".
[5] Substituted, *ibid.*, s. 36 (*b*), for "fifty rupees".
[6] Inserted by the Amending Act, 1903 (I of 1903), s. 3 and Sch. II, Pt. II.

(*j*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506 of the same Code ;

(*k*) abetment of any of the foregoing offences ;

(*l*) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

(*m*) offences under section 20 of the Cattle-trespass Act, 1871 :

I of 1871.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(*j*) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506 of the same Code ;

(*k*) abetment of any of the foregoing offences ;

(*l*) an attempt to commit any of the foregoing offences, when such attempt is an offence ;

(*m*) offences under section 20 of the Cattle-trespass Act, 1871 :

I of 1871.

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(*2*) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to rehear the case in manner provided by this Code.

261. The State Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

Power to invest Bench of Magistrates invested with less power.

(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 and 504 ;

XLV of 1860.

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month with or without fine ;

(*c*) abetment of any of the foregoing offences ;

261. The [1][[2][State] Government] may [3][*in consultation with the High Court*] confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

Power to invest Bench of Magistrates invested with less power.

(*a*) offences against the Indian Penal Code, sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, [4][447 and 504] ;

XLV of 1860.

(*b*) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month [5][with or without fine] ;

(*c*) abetment of any of the foregoing offences ;

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by 23 of 1951, s. 2 and Sch. Pt. I.
[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 75, for "and 447".
[5] Inserted by s. 75, *ibid.*

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

(*d*) an attempt to commit any of the foregoing offences, when such attempt is an offence.

Procedure for summons and warrant cases applicable.

262. (*1*) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases and the procedure prescribed for warrant cases shall be followed in warrant-cases, except as hereinafter mentioned.

Limit of imprisonment.

(*2*) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

Record in cases where there is no appeal.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the [1][[2][State] Government] may direct the following particulars:—

(*a*) the serial number;

(*b*) the date of the commission of the offence;

(*c*) the date of the report or complaint;

(*d*) the name of the complainant (if any);

(*e*) the name, parentage and residence of the accused;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*) of section 260 the value of the property in respect of which the offence has been committed;

(*g*) the plea of the accused and his examination (if any);

(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(*i*) the sentence or other final order; and

(*j*) the date on which the proceedings terminated.

Record in appealable cases.

[3][**264.** (*1*) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall record the substance of the evidence and also the particulars mentioned in section 263 and shall, before passing any sentence, record a judgment in the case.]

(*2*) Such judgment shall be the only record in cases coming within this section.

Language of record and judgment.

265. (*1*) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

Bench may be authorized to employ clerk.

(*2*) The State Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court, to which such Bench is immediately subordinate, and the record or

Bench may be authorized to employ clerk.

(*2*) The [1][[2][State] Government] may [4][*in consultation with the High Court*] authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is

[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted by Act 26 of 1955, s. 37, for the original.
[4] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(*3*) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(*4*) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.

A.—Preliminary.

"High Court" defined.

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court" [1][means [2][the High Court [3][for a Part A State or a Part B State]], and includes such other Courts as the [4][State] Government may by notification in the Official Gazette], declare to be High Courts for the purposes of this Chapter [5][and of Chapter XVIII].

Trials before High Court to be by jury.

267. All trials under this Chapter before a High Court shall be by jury,

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent or law by which the High Court is constituted or continued the trial may, if the High Court so directs, be by jury.

Trials before High Court [6][*or the Court of Session for Greater Bombay*] to be by jury.

267. All trials under this Chapter before a High Court [6][*or the Court of Session for Greater Bombay*] shall be by jury,

and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent [7][or [8][law by which the High Court is constituted or continued] the trial may, if the High Court so directs, be by jury.

Trials before Court of Session.

268. All trials before a Court of Session shall be either by jury or by the Judge himself.

Trials before Court of Session.

[9][**268.** All trials before a Court of Session shall be either by jury or by the Judge himself.]

State Government may order trials before Court of Session to be by jury.

269. (*1*) The State Government may by order in the Official Gazette, direct that the trial of all offences, or of any particular class of offences, before any

State Government may order trials before Court of Session to be by jury.

269. (*1*) The [10][[4][State] Government] may [11][*in consultation with the High Court*] [12]* * * by order in the Official Gazette, direct that the

[1] Substituted by the A. O. 1937 for "means a High Court of Judicature established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, and includes the Chief Court of Oudh, the Court of the Judicial Commissioner of Sind, and such other Courts as the G. G. in C. may, by notification in the Gazette of India".

[2] Substituted by the A. O. 1950 for "a High Court within the meaning of the Government of India Act, 1935".

[3] Substituted by Act 1 of 1951, s. 12, for "for a Part A State".

[4] Substituted by the A. O. 1950 for "Provincial".

[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 76.

[6] Inserted by Bom. 32 of 1948, s. 4.

[7] Substituted by the A. O. 1950 for "of any High Court established under the Indian High Courts Act, 1861, or the Government of India Act, 1915, or the Government of India Act, 1935".

[8] Substituted by Act 1 of 1951, s. 13, for "order".

[9] Substituted by Act 26 of 1955, s. 38, for the original.

[10] Substituted by the A. O. 1937 for "L. G.".

[11] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[12] The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

Court of Session, shall be by jury in any district, and may, revoke or alter such order.

trial of all offences, or of any particular class of offences, before any Court of Session [1][*other than the Court of Session for Greater Bombay*] shall be by jury in any district, and may, [2]* * * revoke or alter such order.

(*2*) The [3][[4][State] Government], by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the judge, on application made to him or of his own motion so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(*3*) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and [5][by the Judge himself] for such of them as are not triable by jury.

[6][(*4*) When, in respect of a trial in which the accused is charged with an offence triable by jury, it appears to the High Court, on an application made to it or otherwise, that having regard to the volume or complexity of the evidence in the case, the trial is not likely to be concluded within two weeks from its commencement, or that the case would involve consideration of evidence of a highly technical nature, which renders it undesirable that it should be tried by a jury, the High Court may, notwithstanding anything contained in any order made under sub-section (*1*), by order, direct that that case shall be tried by the Judge himself without a jury and the Judge shall proceed to try the case accordingly.]

Trial before *Court of* Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial.

271. (*1*) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Plea of guilty.

(*2*) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried.

[7]**272.** If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall, in a case triable by jury, proceed to choose jurors as hereinafter directed and to try the case, but in any other case, the Judge shall proceed to try the case himself:

Provided that, in cases triable by jury, the same jury may, subject to the right of objection hereinafter mentioned, try as many accused persons successively as the Court thinks fit.]

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[1] Inserted by Bom. 32 of 1948, s. 6.

[2] The words "with the like sanction" rep. by the Repealing and Amending Act, 1927 (10 of 1927), s. 3 and Sch. II.

[3] Substituted by the A. O. 1937 for "L. G.".

[4] Substituted by the A. O. 1950 for "Provincial".

[5] Substituted by Act 26 of 1955, s. 39 (*a*), for "by the Court of Sessions with the aid of jurors as assessors".

[6] Inserted, *ibid.*, s. 39 (*b*).

[7] Substituted, *ibid.*, s. 40.

273. (*1*) In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect. Entry on unsustainable charges.

(*2*) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be. Effect of entry.

C.—Choosing a Jury.

274. (*1*) In trials before the High Court the jury shall consist of nine persons. Number of jury.

(*2*) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than seven or more than nine, as the State Government by order applicable to any particular district or to any particular class of offences in that district, may direct :

Provided that, where any accused person is charged with an offence punishable with death, the jury shall consist if practicable, of nine persons.

274. (*1*) In trials before the High Court [1][*or the Court of Session for Greater Bombay*] the jury shall consist of nine persons. Number of jury.

(*2*) In trials by jury [2][*before any other Court*] of Session the jury shall consist of such uneven number, not being less than [3][seven] or more than nine, as the [4][[5][State] Government], by order applicable to any particular district or to any particular class of offences in that district, may direct :

[6][Provided that, where any accused person is charged with an offence punishable with death, the jury [7][shall consist if practicable, of nine persons.]

275. [*Jury for trial of European and Indian British subjects and others.*] *Rep. by Act 17 of 1949, s. 3 (2).*

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule direct : Jurors to be chosen by lot.

Provided that—

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ; Existing practice maintained ;

276. The jurors shall be chosen by lot from the persons summoned to act as such in such manner as the High Court may from time to time by rule direct : Jurors to be chosen by lot

Provided that—

first, pending the issue under this section of rules for any Court the practice now prevailing in such Court in respect to the choosing of jurors shall be followed ; Existing practice maintained ;

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[1] Inserted by Bom. 32 of 1948, s. 7.
[2] Substituted by s. 7, *ibid.*, for "before the Court".
[3] Substituted for "five" by Act 26 of 1955, s. 41 (*i*).
[4] Substituted by the A. O. 1937 for "L. G.".
[5] Substituted by the A. O. 1950 for "Provincial".
[6] Inserted by Act 12 of 1923, s. 13.
[7] Substituted by Act 26 of 1955, s. 41 (*ii*), for the original portion.

persons not summoned when eligible;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present;

trials before special jurors.

thirdly, in a trial before any High Court in the town which is the usual place of sitting of such High Court—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Court so directs,

the jurors shall be chosen from the special jury lists hereinafter prescribed; and

fourthly, in any district for which the State Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

persons not summoned when eligible;

secondly, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present;

trials before special jurors.

thirdly, [1][in a trial before any High Court in the town which is the usual place of sitting of such High Court [2][*or before the Court of Session for Greater Bombay*]]—

(*a*) if the accused person is charged with having committed an offence punishable with death, or

(*b*) if in any other case a Judge of the High Cout so directs,

the jurors shall be chosen from the special jury list hereinafter prescribed; and

fourthly, in any district for which the [3][[4][State] Government] has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

Names of jurors to be called.

277. (*1*) As each juror is chosen, his name shall be called aloud, and upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objection to jurors.

(*2*) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated:

Objection without grounds stated.

Provided that, in the High Court objections without grounds stated shall be allowed to the number of eight on behalf of the Government and eight on behalf of the person or all the persons charged.

Objection without grounds stated.

Provided that, in the High Court [5][*or the Court of Session for Greater Bombay*], objections without grounds stated shall be allowed to the number of eight on behalf of the [6][Government] and eight on behalf of the person or all the persons charged.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 77, for "in the presidency-towns".
[2] Inserted by Bom. 32 of 1948, s. 8.
[3] Substituted by the A. O. 1937 for "L. G."
[4] Substituted by the A. O. 1950 for "Provincial".
[5] Inserted by Bom. 32 of 1948, s. 9.
[6] Substituted by the A. O. 1950 for "Crown".

Grounds of objection.

278. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(*a*) some presumed or actual partiality in the juror ;

(*b*) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years ;

(*c*) his having by habit or religious vows relinquished all care of wordly affairs ;

(*d*) his holding any office in or under the Court ;

(*e*) his executing any duties of police or being entrusted with police-duties ;

(*f*) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;

(*g*) his inability to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted ;

(*h*) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of objection.

279. (*1*) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

(*2*) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury :

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of jury.

280. (*1*) When the jurors have been chosen, they shall appoint one of their number to be foreman.

(*2*) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(*3*) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

Swearing of jurors.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873. X of 1873.

Procedure when juror ceases to attend etc.,

[1][**282.** (*1*) If, in the course of a trial by jury at any time before the return of the verdict,—

(*a*) any juror, from any sufficient cause, is prevented from attending the trial on any day, or

(*b*) if any juror absents himself and it is not practicable to enforce his attendance, or

(*c*) if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted,

the Court, in any case falling under clause (*a*), may either adjourn the trial or discharge the juror and in any case falling under clause (*b*) or clause (*c*), shall discharge the juror ; and in any case where any juror is so discharged, the jury shall

[1] Substituted by Act 26 of 1955, s. 42, for the original section.

be deemed to be reconstituted with the remaining jurors as if the jury had consisted of such persons only from the commencement of the trial and the trial shall proceed before the jury so reconstituted ; and notwithstanding anything contained elsewhere in this Code, such trial shall not be invalid by reason only of the fact that the number of persons originally constituting the jury has been reduced.

(*2*) Notwithstanding anything contained in sub-section (*1*), if, in the course of a trial by jury, the number of persons constituting the jury is so reduced that,—

(*a*) when the jury originally consisted of nine persons, it falls below seven, or

(*b*) when the jury originally consisted of seven persons, it falls below five,

the jury shall be discharged and a new jury chosen, and in each of such cases, the trial shall commence anew.]

Discharge of jury in case of sickness of prisoner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—Choosing Assessors.

284. [*Assessors how chosen*]. *Omitted by Act 26 of 1935, s. 43.*

284A. [*Assessors for trial of European and Indian British subjects and others.*] *Rep. by Act 16 of 1949, s. 3 (2).*

285. [*Procedure when assessor is unable to attend*]. *Omitted by Act 26 of 1935, s. 43.*

285A. [*Trial of European or Indian British subject or European or American jointly accused with others*]. *Rep. by Act 17 of 1949, s. 3 (2).*

E.—Trial to Close of Cases for Prosecution and Defence

Opening case for prosecution.

286. (*1*) [1][In a case triable by jury, when the jurors have been chosen or, in any other case, when the Judge is ready to hear the case] the prosecutor shall open his case by reading from the Indian Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused. XLV of 1860.

Examination of witnesses.

(*2*) The prosecutor shall then examine his witnesses.

Examination of accused before Magistrate to be evidence.

287. The examination of the accused [2][if any] recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.[3]

Evidence given at preliminary inquiry admissible.

288. The evidence of witness [4][duly recorded in the presence of the accused under Chapter XVIII] may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case [5][for all purposes subject to the provisions of the Indian Evidence Act, 1872]. I of 1872.

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[1] Substituted by Act 26 of 1955, s. 44, for the original portion.
[2] Substituted by *ibid.* s. 45, for "duly".
[3] *See* the Indian Evidence Act, 1872 (I of 1872), s. 80.
[4] Substituted for "duly taken in the presence of the accused before the committing Magistrate" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 78.
[5] Inserted by s. 78, *ibid.*

Procedure after examination of witnesses for prosecution.

289. (*1*) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

(*2*) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then [1][in a case tried by the Judge himself], record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*3*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the accused committed the offence, the Court may then, [1][in a case tried by the Judge himself] record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(*4*) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to examination and summoning of witnesses.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections [2][207A] 211 and 231, be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Prosecutor's right of reply.

[3][**292.** The prosecutor shall be entitled to reply—

(*a*) if the accused or any of the accused adduces any oral evidence; or

(*b*) with the permission of the Court, on a point of law; or

(*c*) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Provided that, in the case referred to in clause (*c*) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced.]

View by jury or assessors.

293. (*1*) Whenever the Court thinks that the jury [4]* should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court [shall make an order to that effect, and the jury [4]* * shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

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[1] Substituted by Act 26 of 1955, s. 46, for the original portion.

[2] Inserted, *ibid.*, s. 47.

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 79, for the original s. 292.

[4] The words "or assessors" were omitted by Act 26 of 1955, s. 48.

(*2*) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury [1]* * and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessors may be examined.

294. If a juror [2]* * is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or assessors to attend at adjourned sitting.

295. If a trial is adjourned, the jury [3]* * shall attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

Locking up jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court [4][*or the Court of Session for Greater Bombay*] lasting for more than one day; and subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

F.—Conclusion of Trial in Cases tried by Jury.

Charge to jury.

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided [5][and the charge to the jury shall, wherever practicable, be taken down in shorthand in the language in which it is delivered and a transcript thereof signed by the Judge shall form part of the record].

Duty of Judge.

298. (*1*) In such cases it is the duty of the Judge—

(*a*) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) to decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

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[1] The words "or assessors" were omitted by Act 26 of 1955, s. 48.
[2] The words "or assessor" were omitted, *ibid.*, s. 49.
[3] The words "or assessors" were omitted, *ibid.*, s. 50.
[4] Inserted by Bom. 32 of 1948, s. 10.
[5] Added by Act 26 of 1955, s. 51.

(*2*) The Judge may, if he thinks proper, in the course of his summing up express to the jury his opinion upon any question of fact, or upon any questio of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*) It is proposed to prove a statement made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury.

299. It is the duty of the jury—

(*a*) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(*b*) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(*c*) to decide all questions which according to law are to be deemed questions of fact;

(*d*) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(*a*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*) The question is whether a person entertained a reasonable belief on a particular point whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to or hold any communication with, any member of such jury.

Delivery of verdict.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority [1][or that the jurors are equally divided in opinion].

Procedure where jury differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous [2][or the foreman may inform the Judge that the jurors are still equally divided in opinion].

[1] Inserted by Act 26 of 1955, s. 52.
[2] Inserted, *ibid.*, s. 53.

Verdict to be given on each charge. Judge may question jury.

303. (*1*) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

(*2*) Such questions and the answers to them shall be recorded.

Amending verdict.

304. When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Verdict in High Court [1*] when to prevail.

305. (*1*) When in a case tried before a High Court [1*] the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

(*2*) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

Discharge of jury in other cases.

(*3*) If the Judge disagrees with the majority, he shall at once discharge the jury.

(*4*) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

Verdict in Court of Session when to prevail.

306. (*1*) When in a case tried before the Court of Session [2*] the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

(*2*) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall, [3][unless he proceeds in accordance with the provisions of section 562], pass sentence on him according to law.

Procedure where Sessions Judge disagrees with verdict.

307. (*1*) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which [4][any accused person] has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case [5][in respect of such accused person] to the High Court he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed, [5][and in such case, if the accused is further charged under the provisions of section 310, shall proceed to try him on such charge as if such verdict had been one of conviction].

[6][(*1A*) If, in any such case, the jurors are equally divided in opinion on all or any of the charges on which any accused person has been tried, the Judge shall submit the case in respect of such accused person to the High Court recording his opinion on such charge or charges and the grounds of his opinion, and in such case, if the accused is further charged under the provisions of section 310, he shall proceed to try him on such charge as if the verdict of the jury had been one of conviction.]

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[1] The words "or the Court of Session for Greater Bombay" inserted by Bom. 32 of 1948, s. 11, were deleted by Bom. 6 of 1952, s. 2.

[2] The words "other than the Court of Session for Greater Bombay" inserted by Bom. 32 of 1948, s. 12, were deleted, *ibid.*, s. 3.

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 80.

[4] Substituted by s. 81, *ibid.*, for "the accused".

[5] Inserted by s. 81, *ibid.*

[6] Inserted by Act 26 of 1955, s. 54.

(*2*) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which [1][such accused] has been tried, but he may either remand [1][such accused] to custody or admit him to bail.

(*3*) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict [1][such accused] of any offence of which the jury could have convicted him upon the charge framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

G.—Re-trial of Accused after Discharge of Jury.

Re-trial of accused after discharge of jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

[2][*H.—Conclusion of trial in cases tried by the Judge himself.*

Judgment in cases tried by the Judge himself.

309. (*1*) When, in a case tried by the Judge himself, the case for the defence and the prosecutor's reply (if any) are concluded, the Judge shall give a judgment in the case.

(*2*) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 562, pass sentence on him according to law.]

I.—Procedure in case of Previous Conviction.

Procedure in case of previous conviction.

[3][**310.** In the case of a trial by a jury [4][or by the Judge himself] when the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely :—

(*a*) Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until,

(*i*) he has been convicted of the subsequent offence, or

[5][(*ii*) in the case of a trial by a jury, the jury have delivered their verdict on the charge of the subsequent offence ;]

(*b*) In the case of a trial [6][held by the Judge himself] the Court may, in its discretion, proceed or refrain from proceeding with the trial of the accused on the charge of the previous conviction.]

When evidence of previous conviction may be given.

311. Notwithstanding anything in the lost foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.

[of 872.

[1] Substituted by s. 81 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "the accused".

[2] Substituted by Act 26 of 1955, s. 55, for the original sub-head and section.

[3] Substituted by s. 83, of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for the original s. 310.

[4] Substituted by Act 26 of 1955, s. 56 (*a*), for the original portion.

[5] Substituted, *ibid.*, s. 56 (*b*), for the original sub-clause.

[6] Substituted, *ibid.*, s. 56 (*c*), for the original portion.

J.—List of Jurors for High Court and summoning jurors for that Court.

Number of special jurors.

312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors list.

J.—List of Jurors for High Court [1]*[and the Court of Session for Greater Bombay] and summoning jurors for* [2]*[such Courts]*.

Number of special jurors.

[3][312. The High Court may prescribe the number of persons whose names shall be entered at any one time in the special jurors' list [4]*[for the High Court and the Court of Session for Greater Bombay]*.

* * * * * * * *

Lists of common and special jurors.

313. (*1*) The [6][Clerk of the State] shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

(*a*) a list of all persons liable to serve as common jurors; and

(*b*) a list of persons liable to serve as special jurors only,

(*2*) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(*3*) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

[7][(*4*) The [8][State] Government may exempt any salaried servant of the [9][Government] from serving as a juror.]

Discretion of officer preparing lists.

(*5*) The [6][Clerk of the State] shall, subject to such rules as aforesaid, have full discretion to prepare the said list as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Publication of lists, preliminary and revised.

314. (*1*) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the [6][Clerk of the State], shall be published once in the [10][Official Gazette] before the fifteenth day of April next after their preparation.

(*2*) Revised lists of persons liable to serve as common jurors and special jurors respectively, signed as aforesaid, shall be published once in the [10][Official Gazette] before the first day of may next after their preparation.

(*3*) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

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[1] Inserted by Bom. 32 of 1948, s. 13.
[2] Substituted by s. 13, *ibid.*, for "that Court".
[3] Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 18, for the original s. 312.
[4] Inserted by Bom. 32 of 1948, s. 14.
[5] The proviso was omitted by Act 17 of 1949, s. 3 (*3*).
[6] Substituted by the A. O. 1950 for "Clerk of the Crown".
[7] Substituted by the A. O. 1937 for the original sub-section (*4*).
[8] Substituted by the A. O. 1950 for "Provincial".
[9] Substituted, *ibid.*, for "Crown".
[10] Substituted by the A. O. 1937 for "local Official Gazette".

Number of jurors to be summoned.

315. (*1*) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in the town which is the usual place of sitting of each High Court, as many of those who are liable to serve on special or common juries, respectively as the Clerk of the State considers necessary.

Number of jurors to be summoned.

315. (*1*) Out of the persons named in the revised lists aforesaid there shall be summoned for each sessions [1][*of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay*], [2][as many of those who are liable to serve on special or common juries respectively as the [3][Clerk of the State] considers necessary.]

(*2*) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons.

(*3*) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the place of sitting of High Courts.

316. Whenever a High Court has given notice of its intention to hold sittings at any place outside the [4][town which is the usual place of sitting of such High Court] for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors.

317. (*1*) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the Commanding Officer, cause to be summoned such number of commissioned and non-commissioned officers in [5][the Indian] Army [6][or Air Force] resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(*2*) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his Commanding Officer desires to have excused on the ground of urgent [7][official] duty, or for any other special [7][official] reason.

Failure of jurors to attend.

318. Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who having attended, depart without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being order to attend, shall be

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[1] Substituted by Bom. 32 of 1948, s. 15, for "in the town which is the usual place of sitting of each High Court".

[2] Substituted by Act 18 of 1923, s. 84, for "at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries".

[3] Substituted by the A. O. 1950 for "Clerk of the Crown".

[4] Substituted by Act 18 of 1923, s. 85, for "presidency-towns".

[5] Substituted by the A. O. 1950 for "Her Majesty's".

[6] Inserted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

[7] Substituted by s. 2 and Sch. I, *ibid.*, for "military".

deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid:

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

K.—List of Jurors for Court of Session, and summoning Jurors for that Court.

K.—List of Jurors [1]* *for Court of Session,* [2]*[other than the Court of Session for Greater Bombay] and summoning jurors* [1]* *for that Court.*

Liability to serve as jurors or assessors.

319. All [3]* persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors [4]* at any trial held within the district in which they reside, or, if the [5][[6][State] Government] on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed.

Exemptions.

320. The following persons are exempt from liability to serve as jurors [7]* namely:—

(*a*) officers in civil employ superior in rank to a District Magistrate

[8][(*aa*) members of Parliament or members of the Legislature of any [9]* State;]

(*b*) salaried Judges;

(*c*) Commissioners and Collectors of Revenue or Customs;

(*d*) police-officers and persons engaged in the Preventive service in the Customs Department;

(*e*) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty;

(*f*) persons actually officiating as priests or ministers of their respective religions;

(*g*) persons in [10][the Indian] Army, [11][Navy], [12][or Air Force], except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors;

(*h*) surgeons and others who openly and constantly practise the medical profession;

(*i*) legal practitioners (as defined by the Legal Practitioners' Act, 1879), in actual practice; XVIII of 1879.

(*j*) persons employed in the Post-Office and Telegraph Departments;

(*k*) persons exempted from personal appearance in Court under the provisions of the *Code of Civil Procedure, sections 640 and 641[13]; XIV of 1882.

(*l*) other persons exempted by the [5][[6][State] Government] from liability to serve as jurors or assessors.

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[1] The words "and Assessors" were omitted by Act 26 of 1955, s. 58.
[2] Inserted by Bom. 32 of 1948, s. 16.
[3] The word "male" was omitted by Act 26 of 1955, s. 57 (*g*).
[4] The words "or assessors" were omitted, *ibid.*, s. 59 (*c*).
[5] Substituted by the A. O. 1937 for "L. G.".
[6] Substituted by the A. O. 1950 for "Provincial".
[7] The words "or assessors" were omitted by Act 26 of 1955, s. 58.
[8] Substituted by the A. O. 1950 for the former cl. which has been substituted by the A. O. 1948.
[9] The words and letters "Part A State or Part C" were omitted by Act 1 of 1951, s. 14.
[10] Substituted by the A. O. 1950 for "Her Majesty's".
[11] Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.
[12] Inserted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.
*But now *see* Code of Civil Procedure, 1908 (5 of 1908).
[13] *See* now the Code of Civil Procedure, 1908 (5 of 1908), ss. 132 and 133.

List of jurors.

321. (*1*) The Sessions Judge, and the Collector of the district or such other officer as the [1][[2][State] Government] appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors [3]* and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (*b*) to (*h*), both inclusive.

(*2*) The list shall contain the name, place of abode and quality or business of every such person ; [4]* * * * * * *

Publication of list.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

Objections to list.

323. To every such copy or extract shall be sub-joined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court-house, and at a time to be mentioned in the notice.

Revision of list.

324. (*1*) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror, [5]* * * or who may establish his right to any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service.

(*2*) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror [6]* shall be omitted from the list.

(*3*) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesiad and sent to the Court of Session.

(*4*) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(*5*) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

(*6*) The list so prepared and revised shall be again revised once in every year.

Annual revision of list.

(*7*) The list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Preparation of list of special jurors.

325. In the case of any district for which the [1][[2][State] Government] has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] The words "or assessor" were omitted by Act 26 of 1955, s. 58.
[4] The words "and, if the person is a European or an American, the list shall mention the race to which he belongs" were omitted by Act 1 of 1951, s. 15.
[5] The words "or as an assessor" were omitted by Act 26 of 1955, s. 58.
[6] The words "or assessors" were omitted, *ibid.*, s. 58.

opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors : Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of liability to serve as an ordinary juror in cases not tried by special jury.

District Magistrate to summon jurors.

[5]~~326.~~ (*1*) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter to the District Magistrate requesting him to summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury * * * at the said sessions, the number to be summoned not being less than double the number required for any such trial.

* * * * *

(*2*) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them ; and the names so drawn shall be specified in the said letter.

* * * *

[5][Sessions Judge or Judicial Magistrate] to summon jurors [6].

326. (*1*) [1][The Sessions Judge or such Judicial Magistrate as he may appoint in this behalf shall ordinarily, seven days at least before the day which the Sessions Judge may from time to time fix for holding the sessions,] summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury [2]* * * at the said sessions, the number to be summoned not being less than double the number required for any such trial [3] [4]* * *

(*2*) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them ; and the names so drawn shall be specified in the said letter.

[7]* * * * *

Power to summon another set of jurors [6]*.

327. The Court of Session may direct jurors [6] * to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors [6]* for a whole session oppressive or whenever for other reasons such direction is found to be necessary.

Form and contents of summons.

328. Every summons to a juror [8]* shall be in writing, and shall require his attendance as a juror [8]*, as the case may be, at a time and place to be therein specified.

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[1] These words were substituted for the original portion by Bom. 21 of 1954, s. 3, Second Schedule.

[2] The words "and trials with the aid of assessors" were omitted by Act 26 of 1955, s. 58.

[3] The words "and assessors" were omitted, *ibid.*

[4] The words "and including, where any accused person is a European or an American, as many Europeans or Americans as may be required for the purpose of choosing jurors or assessors for the trial" inserted by Act 12 of 1923, s. 19, were deleted by Act 17 of 1949, s. 3 (*4*).

[5] These words were substituted for the words "District Magistrate" by Bom. 21 of 1954, s. 3, Second Schedule.

[6] The words "or assessors" were omitted by Act 26 of 1955, s. 58.

[7] Sub-sections (*3*) and (*4*) inserted by Act 12 of 1923, s. 19, were omitted, by Act 17 of 1949, s.3(*4*).

[8] The words "or assessor" were omitted, by Act 26 of 1955.

329. When any person summoned to serve as a juror [1]* is in the service of the [2][Government] or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public. When Government or Railway servant may be excused.

330. (*1*) The Court of Session may for reasonable cause excuse any juror [1]* from attendance at any particular session. Court may excuse attendance of juror or assessor.

(*2*) The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months. Court may relieve special jurors from liability to serve again as jurors for twelve months.

331. (*1*) At each session the said Court, shall cause to be made a list of the names of those who have attended as jurors [3]* at such session. List of jurors and assessors attending.

(*2*) Such list shall be kept with the list of the jurors [3]* * as revised under section 324.

(*3*) A reference shall be made in the margin of the siad revised list to each of the names which are mentioned in the list prepared under this section.

332. (*1*) Any person summoned to attend as a juror [4]* * who without lawful excuse, fails to attend as required by summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceding one hundred rupees. Penalty for non-attendance of juror or assessor.

(*2*) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror [1]* within the local limts of the jurisdiction of the Court making the order.

(*3*) For good cause shown, the Court may remit or reduce any fine so imposed.

(*4*) In default of recovery of the fine by attachment and sale, such juror [1]* may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

L.—Special Provisions for High Courts.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Government that he will not further prosecute the defendant Power of Advocate General to stay prosecution.

L.—Special Provisions for High Courts [5][and the Court of Session for Greater Bombay].

333. At any stage of any trial before a High Court [6][*or the Court of Session for Greater Bombay*] under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of [7][Government] that he Power of Advocate General to stay prosecution.

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[1] The words "or assessor" were omitted by Act 26 of 1955, s. 58.
[2] Substituted by the A. O. 1950 for "Crown".
[3] The words "and assessors" were omitted by Act 26 of 1955, s. 58.
[4] The words "or as an assessor" were omitted, *ibid.*
[5] Inserted by Bom. 32 of 1948, s. 17.
[6] Inserted by s. 18, *ibid.*
[7] Substituted by the A. O. 1950 for "Her Majesty".

upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the [1][[2][State] Government], may direct.

(*2*) But it may, from time to time [3]* * * * with the consent of the [4][[2][State] Government], hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the [5][Official Gazette], of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. [*Place of trial of European British subjects.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 20.*

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

Tender of pardon to accomplice.

337. [6][(*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment [7][which may extend to seven years] or any offence under any of the following sections of the Indian Penal Code, namely, sections [8][161, 165, 165A,] 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof: XLV of 1860

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[1] Substituted by the A. O. 1937 for "G. G. in C. in the case of the High Court at Fort William, or the L. G. in the case of the other High Courts".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] The words "in the case of the High Court at Fort William with the consent of the G. G. in C. and in all other cases" rep. by the A. O. 1937.

[4] Substituted by the A. O. 1937 for "L. G."

[5] Substituted, *ibid.*, for "local official Gazette".

[6] Sub-sections (*1*) and (*1A*) substituted for the original sub-section (*1*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 86.

[7] Substituted by Act 26 of 1955, s. 59 (*a*) (*i*), for the original portion.

[8] Inserted, *ibid.*, s. 59 (*a*) (*ii*).

Provided that, where the offence is under inquiry or trial no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

Provided that, where the offence is under inquiry or trial no Magistrate of the first class [1]* * * * shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the [2][*sanction of the Sessions Judge*] has been obtained to the exercise thereof.

(*1A*) Every Magistrate who tenders a pardon under sub-section (*1*) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record :

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

(*2*) Every person accepting a tender under this section shall be examined as a witness in [3][the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.]

[4][(*2A*) In every case where a person has accepted a tender of pardon and has been examined under sub-section (*2*), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.]

[5][(*2B*) In every case where the offence is punishable under section 161 or section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (*2*) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947), and where a person has accepted a tender of pardon and has been examined under sub-section (*2*), then, notwithstanding anything contained in sub-section (*2A*), the magistrate shall, without making any further inquiry send the case for trial to the court of the special judge appointed under the Criminal Law Amendment Act, 1952 (XLVI of 1952).]

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[1] The words "other than the District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[2] Substituted, *ibid*, for "sanction of the District Magistrate".

[3] Substituted by Act 18 of 1923, s. 86, for "the case".

[4] Inserted by s. 86, *ibid*.

[5] Inserted by Act 26 of 1955 , s. 59 (*b*).

(*3*) Such person, [1][unless he is already on bail], shall be detained in custody until the termination of the trial [2]* * * * * * * *

[3]* * * * * * * * * * * * * *

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and [4][the Public Prosecutor certifies that in his opinion] any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made [5][such person may be] tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter:

[4][Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.]

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him [6][at such trial].

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

Procedure in trial of person under section 339.

[7][**339A.** (*1*) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(*a*) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (*1*), and

(*b*) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(*2*) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court [8]* * * * or the Magistrate, as the case may be, shall, before judgment is passed in the case find whether or not the accused has complied with the conditions of the pardon, and if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.]

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 86, for "if not on bail".

[2] The words " by the Court of Session or High Court, as the case may be " rep. by s. 86, *ibid.*

[3] Sub-section (*4*) rep. by s. 86, *ibid.*

[4] Inserted by s. 87, *ibid.*

[5] Substituted by s. 87, *ibid.*, for " he may be ".

[6] Substituted by s. 87, *ibid.*, " when the pardon has been forfeited under this section ".

[7] Inserted by s. 88, *ibid.*

[8] The words " with the aid of the assessors " were omitted by Act 26 of 1955, s. 58.

[1][**340.** (*1*) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

(*2*) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings.]

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit. Procedure where accused does not understand proceedings.

342. (*1*) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. Power to examine the accused.

(*2*) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such in reference from such refusal or answers as it thinks just.

(*3*) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for any other offence which such answers may tend to show he has committed.

[2][(*4*) No oath shall be administered to the accused when he is examined under sub-section (*1*).]

[3][**342A.** Any person accused of an offence before a Crimimal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial: Accused person to be competent witness.

Provided that—

(*a*) he shall not be called as a witness except on his own request in writing; or

(*b*) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.]

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge. No influence to be used to induce disclosures.

344. [4][(*1A*)] If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, or such time as it considers reasonable, and may by a warrant remand the accused if in custody : Power to postpone or adjourn proceedings.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 89, for the original s. 340.

[2] Substituted by Act 26 of 1955, s. 60, for the original sub-section.

[3] Inserted. *ibid*, s. 61.

[4] Sub-section (*1*) was renumbered as (*1A*), *ibid.*, s. 62 (*a*).

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

[1][Provided further when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing.]

[2][(*1*) In every inquiry or trial, the proceedings shall be held as expeditiously as possible and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.]

(*2*) Ever order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Reasonable cause for Remand.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences.

345. (*1*) The offences punishable under the sections of the Indian Penal Code [3][specified] in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table :— XLV of 1860

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force ...	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour ...	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House trespass	448	
Criminal breach of contract of service ...	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	

[1] Added by Act 26 of 1955, s. 62 (*b*).
[2] Inserted, *ibid.*, s. 62 (*a*).
[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90, for "described".

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
[1][Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.]

[2][(2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table :—

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
[3][Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt ...	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days.	344	Ditto.
Wrongfully confining a person in secret ...	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees.	381	Ditto.
Dishonest misappropriation of property ...	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred and fifty rupees.	407	The owner of the property in respect of which the breach of trust has been committed.

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.
[2] Substituted, *ibid.*, for the original sub-section (2).
[3] Substituted for the original by Act 26 of 1955, s. 63.

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Criminal breach of trust by a clerk or servant, where the value of property does not exceed two hundred and fifty rupees.	408	The owner of the property in respect of which the breach of trust has been committed.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc. of any value or any other animal of the value of fifty rupees or upward.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house-trespassed upon.
Using a false trade or property mark ...	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	The person whose trade or property mark is counterfeited.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.]

(*3*) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(*4*) When the person who would otherwise be competent to compound an offence under this section is [1][under the age of eighteen years or is] an idiot or a lunatic, any person competent to contract on his behalf may [2][with the permission of the Court] compound such offence.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90, for "a minor".

[2] Inserted, *ibid.*

(*5*) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

[1][(*5A*) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section.]

(*6*) The composition of an offence under this section shall have the effect of an acquittal of the accused [1][with whom the offence has been compounded.]

(*7*) No offence shall be compounded except as provided by this section.

Procedure of State Magistrate in cases which he cannot dispose of.

346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

Procedure of State Magistrate in cases which he cannot dispose of.

346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district [2][*outside Greater Bombay*], the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction as the District Magistrate [3][*or Sessions Judge, as the case may be,*] directs.

(*2*) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

347. (*1*) If in any inquiry before a Magistrate, or in any trial before a Magistrate, before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall [4]* * * commit the accused under the provisions hereinbefore contained.

(*2*) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

Trial of persons previously convicted of offences against coinage, stamp—law or property.

XLV of 1860.

348. [5][(*1*)] Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall [6][if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused] be committed to the Court of Session or High Court, as the case may be, unless the Magistrate [7][is competent

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.
[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "outside the Presidency Town".
[3] Inserted, *ibid.*
[4] The words "stop further proceedings and" rep. by Act 18 of 1923, s. 91.
[5] S. 348 was renumbered as sub-section (*1*) of that section by s. 92, *ibid.*
[6] Inserted by s. 92, *ibid.*
[7] Substituted by s. 92, *ibid.*, for "before whom the proceedings are pending."

to try the case and] is of opinin that he can himself pass an adequate sentence if the accused is convicted :

Provided that, if [1][any Magistrate in the district] has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

[2][(*2*) When any person is committed to the Court of Session or High Court under sub-section (*1*), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209.]

Procedure when Magistrate cannot pass sentence sufficiently severe.

349. (*1*) Whenever a Magistrate of the second or third class having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe, than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate.

(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.

Procedure when Magistrate cannot pass sentence sufficiently severe.

[3][**349.** (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings and forward the accused [3][*to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court*].

[4][(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to [5][*the Magistrate empowered under sub-section* (*1*).]

(*2*) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given

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[1] Substituted by Act 18 of 1923, s. 92, for "the District Magistrate".

[2] Inserted by s. 92, *ibid.*

[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate".

[4] Inserted by Act 18 of 1923, s. 93.

[5] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "the District Magistrate or Sub-divisional Magistrate".

evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate, and partly by another.

350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdantion, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself :

[1][Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged].

[1][Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness and after such further examination, cross-examination and re-examination, if any, as he may permit the witness shall be discharged].

(*2*) Nothing in this section applies to cases in which proceedings have been stayed under section 346 [2][or in which proceedings have been submitted to a superior Magistrate under section 349].

[2][(*3*) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (*1*).]

Changes in constitution of Benches.

[3][**350A.** No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.]

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[1] Substituted by Act 26 of 1955, s. 64, for the words "or he may re-summon the witnesses and recommence the inquiry or trial" and the original proviso.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 94.

[3] S. 350A inserted, *ibid.*, s. 95.

Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inqury into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency towns.

354. In inquiries and trials, (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Manner of recording evidence.[1] * *

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

355. (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

[1] The words "outside presidency towns" were deleted by Bom. 32 of 1948, s. 19.

Record in other cases outside presidency towns.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing [in the language of the Court either by the Magistrate or Sessions Judge with his own hand or from his dictation in open Court] or in his presence and hearing and under his personal direction and superintendence and [the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record].

Record in other cases.

356. (*1*) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates), and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing [2][in the language of the Court either by the Magistrate or Sessions Judge with his own hand or from his dictation in open Court] or in his presence and hearing and under his personal direction and superintendence and [3][the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record].

Evidence given in English.

(*2*) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand [4][or cause it to be taken down in writing in that language from his dictation in open Court] and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

[5](*2A*) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.]

Memorandum when evidence not taken down by the Magistrate or Judge himself.

(*3*) [6][In cases in which the Magistrate or Sessions Judge does not either take down the evidence with his own hand or cause it to be taken down in writing from his dictation in open Court], he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(*4*) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

Language of record of evidence.

357. (*1*) The [7][8][State] Government] may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court.

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[1] The words "outside presidency towns" were deleted by Bom. 32 of 1948, s. 19.

[2] Substituted by Act 26 of 1955, s. 65 (*a*) (*i*), for "in the language of the Court by the Magistrate or Sessions Judge".

[3] Substituted, *ibid*, s. 65 (*a*) (*ii*), for "shall be signed by the Magistrate or Sessions Judge".

[4] Inserted, *ibid*, s. 65 (*b*).

[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 96.

[6] Substituted by Act 26 of 1955, s. 65 (*c*), for the original portion.

[7] Substituted by the A. O. 1937 for "L. C.".

[8] Substituted by the A. O. 1950 for "Provincial".

CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained.

(*a*) in open Court either immediately after the termination or the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(*3*) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving on the parties or their pleaders, or any of them, the notice of such day and place.

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment.

367. (*1*) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court [1][or from the dictation of such presiding officer] in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reason for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it [1][and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him].

(*2*) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced. XLV of 1860.

Judgment in alternative.

(*3*) When the conviction is under the Indian Penal Code and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative. XLV of 1860.

(*4*) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

[2][(*5*) In trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury:

Provided that it shall not be necessary to record such heads of the charge in cases where the charge has been delivered in English and taken down in shorthand.]

[3][(*6*) For the purposes of this section, an order under section 118 or section 123, sub-section (*3*), shall be deemed to be a judgment.]

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 100.

[2] Substituted by Act 26 of 1955, s. 66, for the original sub-section.

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 100.

Sentence of death.

368. (*1*) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(*2*) [1]*

Court not to alter Judgment.

369. [2][Save as otherwise provided by this Code or by any other law for the time being in force or, [3][in the case of a High Court [4]* * * by the Letters Patent or other instrument constituting such High Court], no Court], when it has signed its judgment, shall alter or review the same, except [5]* * * * to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;

(*b*) the date of the commission of the offence ;

(*c*) the name of the complainant (if any) ;

(*d*) the name of the accused person, and [6]* * * his parentage and residence ;

(*e*) the offence complained of or proved :

(*f*) the plea of the accused and his examination (if any) ;

(*g*) the final order ;

(*h*) the date of such order ; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

Copy of judgment, etc., to be given to accused on application.

371. (*1*) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury [7][or, where a transcript of the charge forms part of the record under section 297, a copy of such transcript] shall on the application of the accused, be given to him without delay and free of cost.

Case of person sentenced to death.

[8](*3*) When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.]

[9][(*4*) When the accused is sentenced to imprisonment then, without prejudice to the provisions of sub-section (*1*) or sub-section (*2*), a copy of the finding and sentence shall, as soon as may be after the delivery of the judgment, be given to the accused free of cost.]

Judgment when to be translated.

372. The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

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[1] Sub-section (*2*) was omitted by Act 26 of 1955, s. 67.

[2] Substituted by s. 101, of the Code of Criminal Procedure (Amendment), 1923 (18 of 1923), for "No Court other than a High Court".

[3] Substituted by the A. O. 1950 for "in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court".

[4] The words and letter "for a Part A State" were omitted by Act 1 of 1951, s. 17.

[5] The words and figures "as provided in sections 395 and 484 or" rep. by Act 18 of 1923, s. 101.

[6] The bracket and words "(except in the case of a European British subject)" were omitted by Act 17 of 1949, s. 3 (*5*).

[7] Inserted by Act 26 of 1955, s. 68 (*a*).

[8] Substituted by Act 1 of 1951, s. 18, for the original sub-section (*3*).

[9] Inserted by Act 26 of 1955, s. 68 (*b*).

Court of Session to send copy of finding and sentence to District Magistrate.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

[1][*Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police.*]

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held :

[2][*Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay.*]

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

Sentence of death to be submitted by Court of Session.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

Power to direct further inquiry to be made or additional evidence to be taken.

375. (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(*2*) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors [3]** and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(*3*) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, [4]* * * the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for prefering an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation of new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more judges, be made, passed and signed by at least two of them.

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[1] Substituted by Bom. 32 of 1948, s. 20, for the original marginal note.
[2] Added by s. 20, *ibid.*
[3] The words "or assessors" were omitted by Act 26 of 1955, s. 69.
[4] The words "whether tried with the aid of assessors or by jury" were omitted, *ibid.*, s. 70.

378. When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion. Procedure in case of difference of opinion.

379. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session. Procedure in cases submitted to High Court for confirmation.

380. Where proceedings are submitted to a Magistrate of the first class or a Sub-divisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken. Procedure in cases submitted by Magistrate not empowered to act under section 562.

380. Where proceedings are submitted to a Magistrate of the first class [1]* * * as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken. Procedure in cases submitted by Magistrate not empowered to act under section 562.

CHAPTER XXVIII.

Of Execution.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary. Execution of order passed under section 376.

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit commute the sentence to [2][imprisonment] for life. Postponement of capital sentence on pregnant woman.

383. Where the accused is sentenced to [3][imprisonment for life] or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall, forthwith forward a warrant to the jail in which he is, or is to be confined, and unless the accused is already confined in such jail, shall forward him to such jail with the warrant. Execution of sentences of transportation or imprisonment in other cases.

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[1] The words "or a Sub-divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[2] Substituted by Act 26 of 1955, s. 71, for "transportation".

[3] Substituted, *ibid.*, s. 72, for "transportation".

Direction of warrant for execution.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be confined.

Warrant with whom to be lodged.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant for levy of fine.

[1][**386.** (*1*) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

(*a*) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender;

(*b*) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless for special reasons to be recorded in writing it considers it necessary to do so.

(*2*) The [2][[3]State] Government] may make rules regulating the manner in which warrants under sub-section (*1*), clause (*a*), are to be executed and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(*3*) Where the Courts issue a warrant to the Collector under sub-section (*1*), clause (*b*) such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly: V of 1908

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.]

Effect of such warrant.

387. [4][A warrant issued under section 386, sub-section (*1*), clause (*a*), by any Court] may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the [5][attachment] and sale of any such property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate, within the local limits of whose jurisdiction such property is found.

Warrant for levy of fine issued by a Court in Jammu and Kashmir.

[6][**387A.** Notwithstanding anything contained in this Code or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in the State of Jammu and Kashmir and the Court passing the sentence issues a warrant to the Collector of a District in the territories to which this Code extends authorising him to realise the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter, such

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 102, for the original s. 386.

[2] Substituted by the A. O. 1937 for "L. G.".

[3] Substituted by the A. O. 1950 for "Provincial".

[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 103, for "such warrant".

[5] Substituted by s. 103, *ibid*, for "distress".

[6] Inserted by Act 26 of 1955, s. 73.

warrant shall be deemed to be a warrant issued under clause (*b*) of sub-section (*1*) of section 386 by a Court in the territories to which this Code extends and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.]

[1][388. (*1*) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may— Suspension of execution of sentence of imprisonment.

(*a*) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals as the case may be, of not more than thirty days, and

(*b*) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(*2*) The provisions of sub-section (*1*) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.]

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office. Who may issue warrant.

390. When the accused is sentenced to whipping only, the sentence shall [2][subject to the provisions of section 391] be executed at such place and time as the Court may direct. Execution of sentence of whipping only.

391. (*1*) When the accused— Execution of sentence of whipping, in addition to imprisonment.

[3][(*a*) is sentenced to whipping only and furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, or

(*b*) is sentenced to whipping in addition to imprisonment,]

the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is made within that time, until the sentence is confirmed by the Appellate Court, but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

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[1] Substituted by the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923), s. 3, for the original s. 388.

[2] Inserted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 21.

[3] Substituted by s. 22, *ibid*, for "is sentenced to whipping in addition to imprisonment in a case which is subject to appeal".

(*2*) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(*3*) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced is less than three months.

Mode of inflicting punishment.

392. (*1*) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as the [1][2][State] Government] directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instruments, as [1][2][State] Government] directs.

Limit of number of stripes.

(*2*) In no case shall such punishment exceed thirty stripes [3][and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes].

Not to be executed by instalments. Exemptions.

393. No sentence of whipping shall be executed by instalments; and none of the following persons shall be punishable with whipping namely:—

(*a*) females;

(*b*) males sentenced to death or [4][imprisonment for life] [5]* or to imprisonment for more than five years;

(*c*) males whom the Court considers to be more than forty-five years of age.

Whipping not to be inflicted if offender not in fit state of health.

394. (*1*) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Stay of execution.

(*2*) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Procedure if punishment cannot be inflicted under section 394.

395. (*1*) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months [6][or to a fine not exceeding five hundred rupees], which may be in addition to any other punishment to which he may have been sentenced for the same offence.

(*2*) Nothing in this section shall be deemed to authorise any Court to inflict imprisonment for a term [6][or a fine of an amount] exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

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[1] Substituted by the A. O. 1937 for "L. G.".
Substituted by the A. O. 1950 for "Provincial".
[3] Inserted by the Whipping Act, 1909 (V of 1909), s. 7.
[4] Substituted by Act 26 of 1955, s. 74, for "transportation".
[5] The words "or to penal servitude" were omitted by Act 17 of 1949, s. 3 (*6*).
[6] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 105.

Execution of sentences on escaped convicts.

396. (*1*) When sentence is passed under this Code on an escaped convict, such sentence, if of death, [1][imprisonment for life], fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment [2]* * [3]* shall take effect according to the following rules, that is to say :—

(*2*) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(*3*) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment [4]* * [5]* for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

Explanation.—For the purposes of this section—

[6]* * *

(*b*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(*c*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence.

[7][**397.** (*1*) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(*2*) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.]

Saving as to sections 396 and 397.

398. (*1*) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(*2*) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment [8]* * * * * [9]* * * * * * * * * and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences of imprisonment [10]* * * * [11]* * * * effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

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[1] Inserted by Act 26 of 1955, s. 75 (*a*) (*i*).
[2] The words "penal servitude" were omitted by Act 17 of 1949, s. 3 (*7*).
[3] The words "or transportation" were omitted by Act 26 of 1955, s. 75 (*a*) (*ii*).
[4] The words "penal servitude" were omitted by Act 17 of 1949, s. 3 (*7*).
[5] The words "or transportation, as the case may be" were omitted by Act 26 of 1955, s. 75 (*b*).
[6] Clause (*a*) was omitted, *ibid.*, s. 75 (*c*).
[7] Substituted, *ibid.*, s. 76, for the original section.
[8] The words "or to a sentence of transportation" were omitted, *ibid.*, s. 77 (*a*).
[9] The words "or penal servitude for an offence punishable with imprisonment" were omitted by Act 17 of 1949, s. 3 (*9*).
[10] Substituted by s. 3 (*9*), *ibid.*, for "transportation or penal servitude".
[11] The words "or tranportation" were omitted by Act 26 of 1955, s. 77 (*b*).

Confinement of youthful offenders in reformatories.

399.† (*1*) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the [1][2][State] Government] as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the [1][2][State] Government] prescribes with regard to the discipline and training of persons confined therein.

(*2*) All persons confined under this section shall be subject to the rules so prescribed.

(*3*) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

Return of warrant on execution of sentence.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed. 1897.

CHAPTER XXIX.

OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

Power to suspend or remit sentences.

[3]401. (*1*) When any person has been sentenced to punishment for an offence, [4]* * * * * * the [5][appropriate Government] may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(*2*) Whenever an application is made to [4]* * * * * * the [5][appropriate Government] for the suspension or remission of a sentence, [4]* * * * * * the [5][appropriate Government] [6]* * * * * * may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion [7][and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists].

(*3*) If any condition on which a sentence has been suspended or remitted is, in the opinion of [4]* * * [8]of the [5][appropriate Government], [6]* * * not fulfilled, [4]* * * the [5][appropriate Government] may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer, without warrant and remanded to undergo the unexpired portion of the sentence.

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† The provisions of section 399 shall cease to apply to any area in which Parts II to XI of the Bombay Children Act, 1948 (Bom. LXXI of 1948), have been brought into operation (*vide* s. 6 of Bom. 71 of 1948).

[1] Substituted by the A. O. 1937 for "L. G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] As regards conditional release of good conduct prisoners in the Punjab, *see* the Good Conduct Prisoners' Probational Release Act, 1926 (Pun. Act 10 of 1926).

[4] The words "the G. G. in C. or" rep. by the A. O. 1937.

[5] Substituted by the A. O. 1950 for "Provincial Government".

[6] The words "as the case may be" rep. by the A. O. 1937.

[7] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 107.

[8] The second "of" is superfluous.

(*4*) The condition on which a sentence is suspended or remitted under this section may be one to be fulfiled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

[1][(*4A*) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law which restricts the liberty of any person or imposes any liability upon him or his property.]

[2]* * * * *

(*6*) The [3]* * * * [4][appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with :

[5][Provided that in the case of any sentence (other than a sentence of fine or whipping) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(*a*) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail ; or

(*b*) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.]

402. [6][(*1*)] The [7]* * * * [4][appropriate Government] may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :— Power to commute punishment.

death, [8][imprisonment for life], [9]* * rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

[10][(*2*) Nothing in this section shall affect the provisions of section 54 or section 55 of the Indian Penal Code.] XLV of 1860.

[11][(*3*) In this section and in section 401, the expression "appropriate Government" shall mean—

(*a*) in cases where the sentence is for an offence against, or the order referred to in sub-section (*4A*) of section 401 is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government ; and

(*b*) in other cases, the State Government.]

[12][**402A.** The powers conferred by sections 401 and 402 upon the [13][State] Government, may, in the case of sentences of death, also be exercised by [14][the Central Government][15]* * *.] Sentences of death.

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1 Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 107.
2 Sub-sections (*5*) and (*5A*) were omitted by A. O. 1950.
3 The words "G. G. in C. and the" rep. by the A. O. 1937.
4 Substituted by the A. O. 1950 for "Provincial Government".
5 Added by Act 26 of 1955, s. 78.
6 The original s. 402 was renumbered as sub-section (*1*) of that section by Act 18 of 1923, s. 108.
7 The words "G. G. in C. or the" rep. by the A. O. 1937.
8 Substituted by Act 26 of 1955, s. 79, for "transportation".
9 The words "penal servitude" were omitted by Act 17 of 1949, s. 3 (*10*).
10 Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 108.
11 Added by the A. O. 1950.
12 Inserted by the A. O. 1937 ; *cf.* the G. of I. Act, 1935, s. 295.
13 Substituted by the A. O. 1931950 for "Provincial".
14 Substituted *ibid.*, for "the Governor-General".
15 The words "in his discretion" rep. by the A. O. 1947.

CHAPTER XXX.

OF PREVIOUS ACQUITTALS OR CONVICTIONS.

Person once convicted or acquitted not to be tried for same offence.—

403. (*1*) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

(*2*) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (*1*).

(*3*) A person convicted of any offence constituted by any act, causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(*4*) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(*5*) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897, or section 188 of this Code. X of 1897.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery: but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section.

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with and tried for robbery on the same facts.

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII.

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.[1]

Unless otherwise provided, no appeal to lie.

404. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Appeal from order rejecting application for restoration of attached property.

405. Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order requiring security for keeping the peace or for good behaviour.

[2][**406.** Any person who has been ordered under section 118 to give security for keeping the peace or for good behaviour may appeal against such order—

(*a*) if made by a Presidency Magistrate, to the High Court ;

(*b*) if made by any other Magistrate, to the Court of Session :

[3]* * * * * *

Provided, [4]that nothing in this section shall apply to persons the proceedings against whom are laid before a Session Judge in accordance with the provisions of sub-section (*2*) or sub-section (*3A*) of section 123.]

Appeal from direction made by District Magistrate to make further inquiry into proceedings in which an order of release or discharge has been made under section 119.

[5][**406AA.** Any person aggrieved by a direction made by a District Magistrate under sub-section (*2*) of section 436 requiring any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make further inquiry into any proceedings in which an order of release or discharge has been made by him under section 119 may appeal against such direction to the Court of Session.]

Appeal from order refusing to accept or rejecting a surety.

[6][**406A.** Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order,—

(*a*) if made by a Presidency Magistrate, to the High Court ;

(*b*) if made by the District Magistrate, to the Court of Session ; or

(*c*) if made by a Magistrate other than the District Magistrate, to the District Magistrate.]

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[1] For periods of limitation, *see* the Indian Limitation Act, 1908 (9 of 1908), s. 3 and Sch. I second division.

[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 109, for the original s. 406.

[3] The first proviso was omitted by Act 26 of 1955, s. 80(*a*).

[4] The word "further" was omitted, *ibid.*, s. 80(*b*).

[5] This section was inserted by Bom. of 1955, s. 4.

[6] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 110.

Transfer of appeals to Additional District Magistrates.

[1][**406B.** The District Magistrate may transfer any appeal presented to him under section 406 or 406A to an Additional District Magistrate, and such Additional District Magistrate may hear and dispose of the appeal.]

407. [*Appeal from sentence of Magistrate of the second or third class.*] *Omitted by Act 26 of 1955, s. 81.*

Appeal from sentence of Assistant Sessions Judge or Magistrate of the first class.

408. Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or any other Magistrate or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by any Magistrate may appeal to the Court of Session :

Provided as follows :—

* * * *

(*b*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, the appeal of all or any of the accused convicted at such trial shall lie to the High Court ;

(*c*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court.

Appeal from sentence of Assistant Sessions Judge or any Magistrate.

[2][**408.** Any person convicted on a trial held by an Assistant Sessions Judge or a Judicial Magistrate or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate may appeal to the Court of Session :

Provided as follows :—

(*1*) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, the appeal of all or any of the accused convicted at such trial shall lie to the High Court ;

(*2*) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code, the appeal shall lie to the High Court.] XLV of 1860.

Appeals to Courts of Session how heard.

[3][**409.** (*1*) Subject to the provisions of this section, an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge or an Assistant Sessions Judge :

Provided that no such appeal shall be heard by an Assistant Sessions Judge unless the appeal is of a person convicted on a trial held by any Magistrate of second or third class.

(*2*) An Additional Sessions Judge or an Assistant Sessions Judge shall hear only such appeals as the State Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.]

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[1] This section was inserted by Bom. 8 of 1954, s. 2., Schedule.

[2] This section was substituted by Bom. 39 of 1955, s. 5.

[3] Substituted by Act 26 of 1955, s. 83, for the original section.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Session Judge, may appeal to the High Court. Appeal from sentence of Court of Session.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees. Appeal from sentence of Presidency Magistrate.

[1][**411A.** (*1*) [2]* * * * * *

Any person covicted on a trial held by a High Court in the exercise of its original criminal jurisdiction may, notwithstanding anything contained in section 418 or section 423, sub-section (*2*), or [3][in the Letters Patent or law by which the High Court is constituted or continued], appeal to the High Court— Appeal from sentence of High Court.

(*a*) against the coviction on any ground of appeal which involves a matter of law only;

(*b*) with the leave of the appellate Court or upon the certificate of the judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to the appellate Court, to be a sufficient ground of appeal; and

(*c*) with the leave of the appellate Court, against the sentence passed unless the sentence is one fixed by law.

(*2*) Notwithstanding anything contained in section 417, the [4][State] Government may direct the Public Prosecutor to present an appeal to the High Court from any order of acquittal passed by the High Court in the exercise of its original criminal jurisdiction, and such appeal may, notwithstanding anything contained in section 418, or section 423, sub-section (*2*) or [3][in the Letters Patent or law by which the High Court is constituted or continued], but subject to the restrictions imposed by clause (*b*) and clause (*c*) of sub-section (*1*) of this section on an appeal against a conviction, lie on a matter of fact as well as a matter of law.

(*3*) Notwithstanding anything elsewhere contained in any Act or Regulation, an appeal under this section shall be heard by a Division Court of the High Court composed of not less than two judges, being judges other than the judge or judges by whom the original trial was held; and if the constitution of such a Division Court is impracticable, the High Court shall report the circumstances to the [4][State] Government which shall take action with a view to the transfer of the appeal under section 527 to another High Court.

(*4*) Subject to such rules as may from time to time be made by [5][the Supreme Court] in this behalf, and to such conditions as the High Court may establish or require, an appeal shall lie to [5][the Supreme Court] from any order made on appeal under sub-section (*1*) by a Division Court of the High Court in respect of which order the High Court [6][certifies that the case] is a fit one for such appeal.]

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[1] Inserted by the Criminal Procedure Amendment Act, 1943 (26 of 1943), s. 2.
[2] The words "Without prejudice to the provisions of section 449" were omitted by the A. O. 1950.
[3] Substituted by Act 1 of 1951, s. 19, for "in the Letters Patent of any High Court".
[4] Substituted by the A. O. 1950 for "Provincial".
[5] Substituted, *ibid.*, for "His Majesty in Council".
[6] Substituted, *ibid.*, for "declares that the matter".

No appeal in certain cases when accused pleads guilty.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by [1][a High Court,] a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in petty cases.

413. Notwithstanding anything hereinbefore contained there shall be no appeal by a convicted person in cases in which a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which a Court of Session passes a sentence of imprisonment not exceeding one month only, or in which a Court of Session or District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding fifty rupees only.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

No appeal in petty cases.

413. Notwithstanding anything hereinbefore contained there shall be no appeal by a convicted person in cases in which [2][a High Court [3][*or the Court of Session for Greater Bombay*] passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which] [4][*any other Court of Session*] [5]* * * passes a sentence of imprisonment not exceeding one month only, or [6][in which a court of Session [7][*other than that for Greater Bombay*] or [8][*a*] Magistrate of the first class passes a sentence] of fine not exceeding fifty rupees only [9]* * * *.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

No appeal from certain summary convictions.

414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 260 passes a sentence [10]* * of fine not exceeding two hundred rupees only [11]*

Proviso to sections 413 and 414.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 [12][by which any punishment therein mentioned is combined with any other punishment], but no sentence which would not otherwise be liable to appeal shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

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[1] Inserted by s. 3 of the Criminal Procedure Amendment Act, 1943 (26 of 1943).
[2] Inserted by s. 4, *ibid.*
[3] Inserted by Bom. 32 of 1948, s. 21.
[4] Substituted by s. 21, *ibid.*, for "a Court of Session".
[5] The words "or the District Magistrate or other Magistrate of the first class" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 24.
[6] Inserted by s. 24, *ibid.*
[7] Inserted by Bom. 32 of 1948, s. 21.
[8] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "District Magistrate or other".
[9] The words "or of whipping only" repealed by Act 12 of 1923, s. 24.
[10] The words "of imprisonment not exceeding three months only, or" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 25.
[11] The words "or of whipping only" rep. by s. 25, *ibid.*
[12] Substituted by the Repealing and Amending Act, 1945 (6 of 1945), s. 3 and Sch. II, for "by which any two or more of the punishments therein mentioned are combined".

Explanation.—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

Special right of appeal in certain cases.

[1][**415A.** Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.]

416. [*Saving of sentences on European British subjects.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 26.*

Appeal in case of acquittal.

[2][**417.** (*1*) Subject to the provisions of sub-section (*5*), the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

(*2*) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (XXXV of 1946), the Central Government may also direct the Public Prosecutor to present an appeal to the High Court from the order of acquittal.

(*3*) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(*4*) No application under sub-section (*3*) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of sixty days from the date of that order of acquittal.

(*5*) If, in any case, the application under sub-section (*3*) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (*1*).

Appeal on what matters admissible.

418. [3][(*1*)] An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

[4][(*2*) Notwithstanding anything contained in sub-section (*1*) or in section 423, sub-section (*2*), when, in the case of a trial by jury, any person is sentenced to death, any other person convicted in the same trial with the person so sentenced may appeal on a matter of fact as well as a matter of law.]

Explanation.—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

Petition of appeal.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgement or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

Procedure when appellant in jail.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 114.
[2] Substituted by Act 26 of 1955, s. 84, for the original section.
[3] S. 418 was renumbered as sub-section (*1*) of that section by Act 18 of 1923, s. 115.
[4] Inserted by s. 115, *ibid.*

Summary dismissal of appeal.

421. (*1*) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.

(*2*) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

Notice of appeal.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the [1][[2][State] Government] may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

and, in cases of appeals under [3][section 411A, sub-section (*2*), or section 417], the Appellate Court shall cause a like notice to be given to the accused.

Powers of Appellate Court in disposing of appeal.

423. (*1*) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and in case of an appeal under [3][section 411A, sub-section (*2*), or section 417], the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(*a*) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial as the case may be, or find him guilty and pass sentence on him according to law;

(*b*) in an appeal from a conviction, (*1*) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (*2*) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (*3*) with or without such reduction and with or without altering the finding, alter the nature of the sentence, but, subject to the provisions of section 106, sub-section (*3*), not so as to enhance the same;

(*c*) in an appeal from any other order, alter or reverse such order;

(*d*) make any amendment or any consequential or incidental order that may be just or proper.

[4][(*1A*) Where an appeal from a conviction lies to the High Court, it may enhance the sentence notwithstanding anything inconsistent therewith contained in clause (*b*) of sub-section (*1*):

Provided that the sentence shall not be so enhanced, unless the accused has had an opportunity of showing cause against such enhancement.]

(*2*) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted by the Criminal Procedure Amendment Act, 1943 (26 of 1943), s. 5 for "section 417".
[4] Inserted by Act 26 of 1955, s. 85.

Judgments of subordinate Appellate Courts.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

Order by High Court on appeal to be certified to lower Court.

425. (*1*) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(*2*) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal. Release of appellant on bail.

426. (*1*) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(*2*) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

[1][(*2A*) When any person other than a person [2][convicted of a non-bailable offence] is sentenced to imprisonment by a Court, and an appeal lies from that sentence, the Court may, if the convicted person satisfies the Court that he intends to present an appeal, order that he be released on bail for a period sufficient in the opinion of the Court to enable him to present the appeal and obtain the orders of the Appellate Court under sub-section (*1*) and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.]

[3][(*2B*) Where a High Court is satisfied that a convicted person has been granted special leave to appeal to the Supreme Court against any sentence which the High Court has imposed or maintained, the High Court may, if it so thinks fit, order that pending the appeal the sentence or order appealed against be suspended and also, if such person is in confinement, that he be released on bail.]

(*3*) When the appellant is ultimately sentenced to imprisonment, [4]* or [5][imprisonment for life] the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

Arrest of accused in appeal from acquittal.

427. When an appeal is presented under [6][section 411A, sub-section (*2*), or section 417], the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1945 (2 of 1945), s. 3.

[2] Substituted by Act 26 of 1955, s. 86 (*a*), for "accused of a non-bailable offence".

[3] Substituted by the A. O. 1950 for the original sub-section (*2A*) which was inserted by Act 4 of 1946, s. 2.

[4] The words "penal servitude" were omitted by Act I of 1951, s. 20.

[5] Substituted by Act 26 of 1955, s. 86 (*b*), for "transportation".

[6] Substituted by the Criminal Procedure Amendment Act, 1943 (26 of 1943), s. 5, for "section 417".

Appellate Court may take further evidence or direct it to be taken.

428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

Appellate Court may take further evidence or direct it to be taken.

428. (*1*) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken [1][*by a Judicial Magistrate*] or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(*2*) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(*3*) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken; but such evidence shall not be taken in the presence of jurors [2]* *.

(*4*) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

Procedure where Judges of Court of Appeal are equally divided.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit shall deliver his opinion, and the judgment or order shall follow such opinion.

Finality of orders on appeal.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII.

Abatement of appeals.

431. Every appeal under [3][section 411A, sub-section (*2*), or section 417] shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII.

Of Reference and Revision.

Reference to High Court.

[4][**432.** (*1*) Where any court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation.—In this section, "Regulation" means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

(*2*) A presidency magistrate may, if he thinks fit in any case pending before him to which the provisions of sub-section (*1*) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "by a Magistrate".
[2] The words "or assessors" by Act 26 of 1955, s. 87.
[3] Substituted by the Criminal Procedure Amendment Act, 1943 (26 of 1943), s. 5, for "section 417".
[4] Substituted by Act 24 of 1951, s. 3, for the original s. 432.

(*3*) Any court making a reference to the High Court under sub-section (*1*) or sub-section (*2*) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.]

Disposal of case according to decision of High Court.

433. (*1*) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order.

Direction as to costs

(*2*) The High Court may direct by whom the costs of such reference shall be paid.

434. [*Power to reserve questions arising in original jurisdiction of High Court. Procedure when question reserved.*] *Rep. by the Criminal Procedure Amendment Act, 1943 (XXVI of 1943), s. 6.*

Power to call for records of inferior Courts.

435. (*1*) The High Court or any Sessions Judge or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 437.

Power to call for records of inferior Courts.

435. (*1*) The High Court or any Sessions Judge [1][*other than the Sessions Judge of the Court of Session for Greater Bombay*], [2]* * may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court, [3][and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

[4]* * * * *

[5][(*2*) *The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceedings before any Subordinate Executive Magistrate for the*

[1] Inserted by Bom. 32 of 1948, s. 22.
[2] The words "or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 116.
[4] The Explanation was deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[5] Substituted, *ibid.*, for the original sub-sections (*2*) and (*4*).

(*2*) If any Sub-divisional Magistrate acting under sub-section (*1*) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(*3*) *Rep. by Act 18 of 1923, s. 116.*

(*4*) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such Subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record.

(3) If any Sub-divisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate.

[1][*(4) The High Court may call for and examine the record of any proceeding in respect of an order made under section 118,122,143, 144, or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate or the commissioner of Police as the case may be.*]

Power to order inquiry.

436. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into

Power to order inquiry.

[2][**436.** [3][(*1*)] On examining any record under section 435 or otherwise, the High Court or the Sessions Judge [4][*other than the sessions Judge of the Court of session for Greater Bombay*] may direct [5][*the Judicial Magistrate to make*] further inquiry into any complaint which has been dismissed under section 203 or sub-section (*3*) of section 204, or into the case of any [6][person accused of an offence] who has been discharged:

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[1] Sub-section (*4*) was substituted for the original by Bom. 39 of 1955, s. 6.

[2] This section, originally numbered 437, was renumbered 436 by Act 18 of 1923, s. 117.

[3] Section 436 was renumbered as sub-section (*1*) of that section by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[4] Inserted by Bom. 32 of 1948, s. 23.

[5] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "the District Magistrate by himself or by any of the Magistrates subordinate to him, to make, and the District Magistrate may himself make, or direct any subordinate Magistrate to make".

[6] Substituted for "accused person" by Act 18 of 1923, s. 117.

the case of any person accused of an offence who has been discharged :

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

[1][Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.]

[2][(2) *On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-Divisional Magistrate or any other Executive Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceedings* [3][*in which an order of release or discharge has been made under section 119*] :

Provided that no District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has haa an opportunity of showing cause why such direction should not be made.]

437. When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate improperly discharged : Power to order commitment.

[4][**437.** When, on examining the record of any case under section 435 or otherwise, the Sessions Judge [5][*other than the Sessions Judge of the Court of Session for Greater Bombay*] [6]* * * considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge [6]* * * may cause him to be arrested, and may thereupon instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Power to order commitment.

[1] Inserted by Act 18 of 1923, s. 117.
[2] Added by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[3] These words were inserted by Bom. 39 of 1955, s. 7.
[4] This section, originally numbered 436, was renumbered 437 by Act 18 of 1923, s. 117.
[5] Inserted by Bom. 32 of 1948, ss. 24 and 25.
[6] The words "or District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

Provided as follows :—

(*a*) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;

(*b*) that, if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

Sessions Judge [1]* * * improperly discharged :

Provided as follows :—

(*a*) that the accused has had an opportunity of showing cause to such Judge [2]* * why the commitment should not be made ;

(*b*) that, if such Judge [2]* * thinks that the evidence shows that some other offence has been committed by the accused, such Judge [2]* * may direct the inferior Court to inquire into such offence.

Report to High Court.

438. (*1*) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

Report to High Court.

438. (*1*) The Sessions Judge [3][*other than the Sessions Judge of the Court of Session for Greater Bombay*] [1]* * * * may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

(*2*) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him [4][by or under any general or special order of the Sessions Judge].

Power of District Magistrate to report to High Court or decide finally proceedings called for.

[5][**438A.** On examining under section 435 or otherwise the record of any proceedings,—

(*1*) if such proceeding is in respect of an order made under section 118, 122, 143, 144 or 145 and the District Magistrate thinks that the order made in such proceeding should be reversed or altered, he shall report for the orders of the High Court the result of such examination ;

(*2*) if such proceeding is in respect of an order made under any other section, then in the case of such proceeding the District Magistrate may, subject to the provisions of sub-section (*2*) of section 436, exercise any of the powers conferred on a Court of Appeal by sections 423, 426, 427 and 428.]

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[1] The words "or District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[2] The words "or Magistrate" were deleted, *ibid.*

[3] Inserted by Bom. 32 of 1948, ss. 24 and 25.

[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 118, for "by the Sessions Judge".

[5] This section was inserted by Bom. 39 of 1955, s. 8.

High Court's powers of revision.

439. (*1*) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections [1]* 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence; and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429.

(*2*) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(*3*) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(*4*) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction.

(*5*) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

[2][(*6*) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (*2*) of showing cause why his sentence should not be enhanced shall, in showing cause be entitled also to show cause against his conviction.]

Optional with Court to hear parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 439, sub-section (*2*).

Statement by Presidency Magistrate of grounds of his decision to be considered by High Court.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

High Court's order to be certified to lower Court or Magistrate.

442. When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 425, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary the record shall be amended in accordance therewith.

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[1] The figures "195" rep. by Act 18 of 1923, s. 119.

[2] Inserted, *ibid.*, s. 119.

PART VIII.

SPECIAL PROCEEDINGS.

[*CHAPTER XXXIII—Special provisions relating to cases in which Europeans and Indian British subjects are concerned.*] *Rep. by the Criminal Law (Removal of Racial Discriminations) Act, 1949 (XVII of 1949), s. 3 (with effect from the 6th April 1949).*

CHAPTER XXXIV.

LUNATICS.

Procedure in case of accused being lunatic.

464. (*1*) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the District or such other medical officer as the [1][2][State] Government] directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

[3][(*1A*) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 466.]

(*2*) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he [3][shall record a finding to that effect and] shall postpone further proceedings in the case.

Procedure in case of person committed before Court of Session or High Court being lunatic.

465. (*1*) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court [4]* shall, in the first instance, try the fact of such unsoundness and incapacity, [5][and if the jury or Court, as the case may be, is satisfied of the fact, the Judge shall record a finding to that effect and shall postpone further proceedings in the case and the jury, if any, shall be discharged].

(*2*) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

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[1] Substituted by the A.O. 1937 for "L.G.".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 120.

[4] The words "with the aid of assessors" were omitted by Act 26 of 1955, s. 88.

[5] Substituted by s. 121 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed".

Release of lunatic pending investigation or trial.

466. (*1*) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, [1][whether the case is one in which bail may be taken or not], may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Custody of lunatic.

[2][(*2*) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the [3][[4][State] Government]:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the [3][[4][State] Government] may have made under the Indian Lunacy Act, 1912.] IV of 1912.

Resumption of inquiry or trial.

467. (*1*) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(*2*) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before Magistrate or Court.

468. (*1*) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(*2*) If the Magistrate or Court considers the accused [5]* to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be, [6][and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 466.]

When accused appears to have been insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

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[1] Substituted by Act 18 of 1923, s. 122, for "if the case is one in which bail may be taken".
[2] Substituted by s. 122, *ibid.* for the original sub-section (*2*).
[3] Substituted by the A. O. 1937 for "L. G.".
[4] Substituted by the A. O. 1950 for "Provincial".
[5] The word "person" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 123.
[6] Inserted by s. 123, *ibid.*

Judgment of acquittal on ground of lunacy.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be detained in safe custody.

471. (*1*) Whenever [1][the finding] states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be [2][detained] in safe custody in such place and manner as the Magistrate or Court thinks fit, [3][and shall report the action taken to the [4][5][State] Government]] [6]* * * :

[7][Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the [4][5][State] Government] may have made under the Indian Lunacy Act, 1912.] IV of 1912.

[8]* * * * * * *

Power of State Government to relieve Inspector General of certain functions.

[9][(*2*)] The [4][5][State] Government] may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under [10]* * section 473 or section 474.

472. [*Lunatic prisoners to be visited by Inspector General.*] *Rep. by the Indian Lunacy Act, 1912 (IV of 1912), s. 101 and Sch. II.*

Procedure where lunatic prisoner is reported capable of making his defence.

473. If such person is [11][detained] under the provisions of section 466, and [12][in the case of a person detained in a jail, the Inspector General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them] shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

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[1] Substituted by Act 18 of 1923, s. 124, for "such judgment".
[2] Substituted by s. 124. *ibid.*, for "kept".
[3] Inserted by s. 124, *ibid.*
[4] Substituted by the A. O. 1937 for "L.G.".
[5] Substituted by the A. O. 1950 for "Provincial".
[6] The words "and shall report the case for the orders of the L. G." rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.
[7] Inserted by Act 18 of 1923, s. 124.
[8] Sub-sections (2) and (3) rep. by the Indian Lunacy Act, 1912 (4 of 1912), s. 101 and Sch. II.
[9] The original sub-section (4) was renumbered (2) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 124.
[10] The word and figures "section 472" rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.
[11] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 125, for "confined".
[12] Substituted by s. 125, *ibid.*, for "such Inspector General or visitors".

474. (*1*) If such person is [1][detained] under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their Judgment, he may be [2][released] without danger of his doing injury to himself or to any other person, the [3][[4][State] Government] may thereupon order him to be [2][released] or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers. **Procedure where lunatic detained under section 466 or 471 is declared fit to be released.**

(*2*) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the [3][[4][State] Government], which may order his [5][release] or detention as it thinks fit.

[6][**475.** (*1*) Whenever any relative or friend of any person detained under the provisions of section 466 or section 471 desires that he shall be delivered to his care and custody, the [3][[4][State] Government] may, upon the application of such relative or friend and on his giving security to the satisfaction of such [3][[4][State] Government] that the person delivered shall— **Delivery of lunatic to care of relative or friend.**

(*a*) be properly taken care of and prevented from doing injury to himself or to any other person, and

(*b*) be produced for the inspection of such officer, and at such times and places, as the [3][[4][State] Government] may direct, and

(*c*) in the case of a person detained under section 466, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(*2*) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (*1*), clause (*b*), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production the Magistrate or Court shall proceed in accordance with the provisions of section 468, and the certificate of the inspecting officer shall be receivable as evidence.]

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

[7][**476.** (*1*) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise, of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 195, sub-section (*1*) clause (*b*) or clause (*c*), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to **Procedure in cases mentioned in section 195.**

[1] Substituted by Act 18 of 1923, s. 126, for "confined".
[2] Substituted by s. 126, *ibid.*, for "discharged".
[3] Substituted by the A. O. 1937 for "L. G.".
[4] Substituted by the A. O. 1950 for "Provincial".
[5] Substituted by Act 18 of 1923, s. 126, for "discharge".
[6] Substituted by s. 127, *ibid.*, for the original s. 475.
[7] Ss. 476, 476A and 476B were substituted for the original s. 476 by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 128.

that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to a Magistrate of the first class having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate :

[1][Provided that, where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint.]

For the purposes of this sub-section, a [2]* Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(*2*) Such Magistrate shall thereupon proceed according to law and is if upon complaint made under section 200.

(*3*) Where it is brought to the notice of such Magistrate or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

476A. The power conferred on Civil, Revenue and Criminal Courts by section 476, sub-section (*1*), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), in any case in which such former Court has neither made a complaint under section 476 in respect of such offence nor rejected an application for the making of such complaint ; and, where the superior Court makes such complaint, the provisions of section 476 shall apply accordingly.

Appeals.

476B. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 476 or section 476A, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 195, sub-section (*3*), and the superior Court may thereupon , after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 476, and if it makes such complaint the provisions of that section shall apply accordingly.

Power to order costs.

[3][**476C**. *A criminal court dealing with an application made to it for filing a complaint under section 476 or 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application in revision shall have power to make such order as to costs as may be just :*

Provided that no such order shall be made against the Government or any public servant acting on behalf of the Government.]

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1926 (2 of 1926), s. 6.

[2] The word "Chief" rep. by s. 6, *ibid.*

[3] Inserted by Bom. 46 of 1948, s. 2.

477. [*Power of Court of Session as to such offences committed before itself.*] *Rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923), s. 129.*

Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

478. (*1*) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(*2*) For the purposes of an inquiry under this section the Civil or Revenue Court may [1]* * * exercise all the powers of a Magistrate ; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, [2]* * * * * * and shall be deemed to have been held by a Magistrate.

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate [3]* * or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

Procedure in certain cases of false evidence.

[4][**479A.** (*1*) Notwithstanding anything contained in sections 476 to 479 inclusive, when any Civil, Revenue or Criminal Court is of opinion that any person appearing before it as a witness has intentionally given false evidence in any stage of the judicial proceeding or has intentionally fabricated false evidence for the purpose of being used in any stage of the judicial proceeding, and that, for the eradication of the evils of perjury and fabrication of false evidence and in the interests of justice, it is expedient that such witness should be prosecuted for the offence which appears to have been committed by him, the Court shall, at the time of the delivery of the judgment or final order disposing of such proceeding, record a finding to that effect stating its reasons therefor and may, if it so thinks fit, after giving the witness an opportunity of being heard, make a complaint thereof in writing signed by the presiding officer of the Court setting forth the evidence which, in the opinion of the Court, is false or fabricated and forward the same to a Magistrate of the first class having jurisdiction, and may, if the accused is present before the Court, take sufficient security for his

[1] The words and figures "subject to the provisions of section 443" rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 28.

[2] The words and figures "and of Chapter XXXIII in cases where that Chapter applies" inserted by Act 12 of 1923, s. 28, were omitted by Act 17 of 1949, s. 3 (*12*).

[3] The words "District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[4] Inserted by Act 26 of 1955, s. 89.

appearance before such Magistrate and may bind over any person to appear and give evidence before such Magistrate :

Provided that where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint.

Explanation.—For the purposes of this sub-section, a Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(*2*) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(*3*) No appeal shall lie from any finding recorded and complaint made under sub-section (*1*).

(*4*) Where, in any case, a complaint has been made under sub-section (*1*) and an appeal has been preferred against the decision arrived at in the judicial proceeding out of which the matter has arisen, the hearing of the case before the Magistrate to whom the complaint was forwarded or to whom the case may have been transferred shall be adjourned until such appeal is decided ; and the appellate Court, after giving the person against whom the complaint has been made an opportunity of being heard, may, if it so thinks fit, make an order directing the withdrawal of the complaint ; and a copy of such order shall be sent to the Magistrate before whom the hearing of the case is pending.

(*5*) In any case, where an appeal has been preferred from any decision of a Civil, Revenue or Criminal Court but no complaint has been made under sub-section (*1*), the power conferred on such Civil, Revenue or Criminal Court under the said sub-section may be exercised by the appellate Court ; and where the appeallate Court makes such complaint, the provisions of sub-section (*1*) shall apply accordingly, but no such order shall be made, without giving the person affected thereby an opportunity of being heard.

(*6*) No proceedings shall be taken under sections 476 to 479 inclusive for the prosecution of a person for giving or fabricating false evidence, if in respect of such a person proceedings may be taken under this section].

Procedure in certain cases of contempt.

480. (*1*) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offenders [1]* * * to be detained in custody and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. XLV of 1860.

[2]* * * * * * * *

Record in such cases.

481. (*1*) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(*2*) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult. XLV of 1860.

[1] The words "whether he is a European British subject or not" rep. by Act 12 of 1923, s. 29.
[2] Sub-section (*2*) was omitted by Act 17 of 1949, s. 3 (*13*).

482. (*1*) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate. Procedure where Court considers that case should not be dealt with under section 480.

(*2*) The Magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

483. When the [1][2][State] Government] so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877[3] shall be deemed to be a Civil Court within the meaning of sections 480 and 482. When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

III of 1877.

484. When any Court has under section 480 [4][or section 482] adjudged an offender to punishment [4][or forward him to a Magistrate for trial] for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction. Discharge of offender on submission or apology.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt. Imprisonment or committal of person refusing to answer or produce document.

[5][**485A.** (*1*) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such witness should be tried summarily, the Court may take cognisance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees. Summary procedure for punishment for non-attendance by a witness in obedience to summons.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] *See* now the Indian Registration Act, 1908 (16 of 1908).
[4] Inserted by the Repealing and Amending Act, 1914 (10 of 1914), s. 2 and Sch. I.
[5] Inserted by Act 26 of 1955, s. 90.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials in which an appeal lies.]

Appeals from conviction in contempt cases.

486. (1) Any person sentenced by any Court under section 480 or section 485, [1][or section 485A] may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency towns, to the High Court.

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

487. (1) Except as provided in sections [2]* * 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court [3]* * * *, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

(2) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

Order for maintenance of wives and children.

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly

Order for maintenance of wives and children.

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself [4]* * a Presidency Magistrate [5]* * * or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or

[1] Inserted by Act 26 of 1955, s. 91.
[2] The figures "477" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 130.
[3] The words "and the Recorder of Rangoon" rep. by the Lower Burma Courts Act, 1900 (6 of 1900).
[4] The words "the District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[5] The words "a Sub-Divisional Magistrate" were deleted, *ibid.*

allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding five hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

such child, at such monthly rate not exceeding [1][five hundred, rupees] in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(*2*) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

(*3*) If any person so ordered [2][fails without sufficient cause] to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made : Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

[3][If a husband has contracted marriage with another wife or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him :]

[4][Provided further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due.]

(*4*) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(*5*) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reasons she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(*6*) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases :

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any orders so made may be set aside for good cause shown on application made within three months from the date thereof.

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[1] Substituted by Act 26 of 1955, s. 92, for "five hundred rupees".
[2] Substituted by Act 18 of 1923, s. 131, for "wilfully neglects".
[3] Added by Act 9 of 1949, s. 2.
[4] Inserted by Act 18 of 1923, s. 131.

[1]* * * * * * *

[1][(7)] The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

[1][(8)] [2][Proceedings under this section may be taken against any person] in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

489. [3][(1)] On proof of a change in the circumstance of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increase the allowance the monthly rate of [4][five hundred] rupees in the whole be not exceeded.

[5][(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 488 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.]

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *Habeas Corpus*.

Power to issue directions of the nature of a *habeas corpus*.

491. (1) [6][Any High Court] may, whenever it thinks fit, direct—

(*a*) that a person within the limits of its [7][appellate criminal jurisdiction] be brought up before the Court to be dealt with according to law;

(*b*) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;

(*c*) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;

(*d*) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners [8]* * * for trial or to be examined touching any matter pending before such Court-maritial or Commissioners respectively;

(*e*) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(*f*) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

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[1] The original sub-section (7) was rep., and sub-sections (8) and (9) were re-numbered (7) and (8) respectively by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 131.

[2] Substituted by s. 131, *ibid.*, for "The accused may be proceeded against".

[3] Section 489 was re-numbered sub-section (1) of that section by s. 132, *ibid.*

[4] Substituted by Act 26 of 1955, s. 93, for "one hundred".

[5] Inserted by s. 132 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923).

[6] Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for "Any of the High Courts of Judicature at Fort William, Madras and Bombay".

[7] Substituted by s. 30, *ibid.*, for "ordinary original civil jurisdiction".

[8] The words "acting under the authority of any commission from the G. G. in C." rep. by the A.O. 1937.

(2) [1][The High Court] may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.

III of 1818. XXV of 1827. IV of 1850. II of 1858.

491A. [*Powers of High Court outside the limits of appellate jurisdiction.*] *Rep. by Act 17 of 1949, s 3(14).*

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

Power to appoint Public Prosecutors.

492. (1) The [2]* * * * * * *[3][4][State] Government] may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) [5]* * The District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below [6][such rank as the [3][4][State] Government] may prescribe in this behalf] to be Public Prosecutor for the purpose of [7][any case].

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

493. The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Effect of withdrawal from prosecution.

494. Any Public Prosecutor [8]* * * * may, with the consent of the court in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person

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[1] Substituted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 30, for "Each of the said High Courts".

[2] The words "G.G. in C. or the" rep. by the A.O. 1937.

[3] Substituted by the A.O. 1937 for "L.G.".

[4] Substituted by the A.O. 1950 for "Provincial".

[5] The words "In any case committed for trial to the Court of Session" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 133.

[6] Substituted by s. 133, *ibid.*, for "the rank of Assistant District Superintendent".

[7] Substituted by s. 133, *ibid.*, for "such case".

[8] The words "appointed by the G. G. in C. or the L. G." rep. by s. 134, *ibid.*

[1][either generally or in respect of any one or more of the offences for which he is tried] ; and upon such withdrawal,—

(*a*) if is made before a charge has been framed, the accused shall be discharged [1][in respect of such offence or offences] ;

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted [1][in respect of such offence or offences].

Permission to conduct prosecution.

495. (*1*) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by the [2][[3][State] Government] in this behalf [4]* * * * but no person, other than the Advocate General, Standing Council, Government Solicitor, Public Prosecutor or other Officer generally or specially empowered by the [2][[3][State] Government] in this behalf, shall be entitled to do so without such permission.

(*2*) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(*3*) Any person conducting the prosecution may do so personally or by a pleader.

(*4*) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

In what cases bail to be taken.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail : Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided :

[5][Provided, further, that nothing in this section shall be deemed to affect the provisions of section 107, sub-section (*4*) or section 117, sub-section (*3*).]

When bail may be taken in case of non-bailable offence.

497. (*1*) When any person accused of [6][or suspected of the commission of] any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of [7][an offence punishable with death or [8][imprisonment] for life] :

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[1] Inserted by Act 18 of 1923, s. 134.
[2] Substituted by the A.O. 1937 for "L. G.".
[3] Substituted by the A.O. 1950 for "Provincial".
[4] The words "with the previous sanction of the G.G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.
[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 135.
[6] Inserted by Act 26 of 1955, s. 94(*a*) (*i*).
[7] Substituted by s. 136 of the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), for "the offence of which he is accused".
[8] Substituted by Act 26 of 1955, s. 94(*a*) (*ii*), for "transportation".

[1][Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.]

(*2*) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed [2][a non-bailable offence]; but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

[1][(*3*) An officer or a Court releasing any person on bail under sub-section (*1*) or sub-section (*2*) shall record in writing his or its reasons for so doing.

[3][(*3A*) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.]

(*4*) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody on the execution by him of a bond without sureties for his appearance to hear judgment delivered.]

[4][(*5*) A High Court or Court of Session and in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.]

Power to direct admission to bail or reduction of bail.

498. [5][(*1*)] The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the Hight Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police officer or Magistrate be reduced.

[6][(*2*) A High Court or Court of Session may cause any person who has been admitted to bail under sub-section (*1*) to be arrested and may commit him to custody.]

Bond of accused and sureties.

499. (*1*) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

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[1] Inserted by Act 18 of 1923, s. 136.

[2] Substituted by s. 136, *ibid.*, for "such offence".

[3] Inserted by Act 26 of 1955, s. 94 (*b*).

[4] Substituted by Act 18 of 1923, s. 136, for the original sub-section (*3*).

[5] Section 498 was renumbered as sub-section (*1*) of that section by Act 26 of 1955, s. 95.

[6] Inserted, *ibid.*, S. 95

(*2*) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

[1][(*3*) For the purpose of determining whether the sureties are sufficient, the Court may, if it so thinks fit, accept affidavits in proof of the facts contained therein relating to the sufficiency of the sureties or may make such further inquiry as it deems necessary.]

Discharge from custody.

500. (*1*) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(*2*) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do may commit him to jail.

Discharge of sureties.

502. (*1*) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(*2*) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(*3*) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicant, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

Of Commissions for the Examination of Witnesses.

When attendance of witness may be dispensed with and commission issued.

[2][**503.** (*1*) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a High Court, Court of Session, [3][or any Magistrate] that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter :

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[1] Inserted by Act 26 of 1955, s. 96.

[2] Ss. 503 to 508A were substituted by Act 1 of 1951, s. 21, for the original ss. 503 to 508A.

[3] Substituted by Act 26 of 1955, s. 97 (*a*), for "District Magistrate or Presidency Magistrate".

[1][Provided that where the examination of the President or the Vice-President or the Governor or Rajpramukh of a State as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such a witness.]

[2]* * * * * *

Commission to whom to be issued.

504. (*1*) If the witness is within the territories to which this Code extends, the commission shall be directed to the District Magistrate or Chief Presidency Magistrate, as the case may be, within the local limits of whose jurisdiction the witness is to be found.

(*2*) If the witness is in India, but in an area to which this Code does not extend, the commission shall be directed to such court or officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(*3*) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such court or officer, and sent to such authority for transmission, as the Central Government may, by notification in the Official Gazette, prescribe in this behalf.

Execution of commissions.

505. (*1*) Upon receipt of the commission, the District Magistrate, or such Magistrate [3]* * as he may appoint in this behalf shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under this Code.

[3][(*1*) Upon receipt of the commission, the District Magistrate or such Magistrate subordinate to him as he may appoint in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under this Code.]

(*2*) Upon receipt of the commission, the Chief Presidency Magistrate, or such Presidency Magistrate subordinate to him as he may appoint in this behalf, may compel the attendance of, and examine, the witness as if he were a witness in a case pending before himself.

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[1] Added by Act 26 of 1955, s. 97 (*b*).

[2] Sub-section (*2*) deleted, *ibid.*, s. 97 (*c*).

[3] This sub-section was substituted for the original by Bom. 39 of 1955, s. 9.

Parties may examine witnesses.

506. (*1*) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the court or magistrate directing the commission may think relevant to the issue, and it shall be lawful for the magistrate, court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(*2*) Any such party may appear before such magistrate, court or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of commission.

507. (*1*) After any commission issued under section 503 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the court or magistrate issuing the commission ; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(*2*) Any deposition so taken if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872 (I of 1872), may also be received in evidence at any subsequent stage of the case before another court.

Adjournment of proceeding.

508. In every case in which a commission is issued under section 503, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Execution of foreign commissions.

508A. (*1*) The provisions of section 505 and so much of section 506 and section 507 as relates to the execution of a commission and its return shall apply in respect of commissions issued by any of the courts, judges or magistrates hereinafter mentioned as they apply to commissions issued under section 503.

(*2*) The courts, judges and magistrates referred to in sub-section (*1*) are—

"(*a*) any such court, judge or magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification in the Official Gazette, specify in this behalf ; and

(*b*) any court, judge or magistrate exercising jurisdiction in any such country or place outside India as the Central Government may, by notification in the Official Gazette, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters."]

CHAPTER XLI.

Special Rules of Evidence.

Deposition of medical witness.

509. (*1*) The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

Power to summon Medical witness.

(*2*) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Report of Chemical Examiner.

510. [1][(*1*)] Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, [2][or the Chief Inspector of Explosives or the Director of Finger Print Bureau or an officer of the Mint] upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

[3][(*2*) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the subject-matter of his report.]

Evidence on affidavits.

[4][**510A.** (*1*) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry trial or other proceeding under this Code.

(*2*) The Court may, if it thinks fit and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit,]

Previous conviction or acquittal how proved.

511. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

(*a*) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order, or,

(*b*) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered ;

together with, in each of such cases evidence as to the identity of the accused person with the person so convicted or acquitted.

Record of evidence in absence of accused.

512. (*1*) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on the behalf of the prosecution, and record their depositions. Any such deposition may on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence when offender unknown.

(*2*) If it appears that an offence punishable with death or [5][imprisonment for life] has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of [6][India.]

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[1] Section 510 was renumbered as sub-section (*1*) of that section by Act 26 of 1955, s. 99 (*a*).
[2] Inserted, *ibid.*, s. 99 (*a*).
[3] Inserted, *ibid.*, s. 99 (*b*).
[4] Inserted, *ibid.*, s. 100.
[5] Substituted, *ibid.*, s. 101, for "transportation".
[6] The words "British India" have successively been subs. by the A. O. 1948, A. O. 1950 and Act I of 1951 to read as above.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

Deposit instead of recognizance.

513. When any person is required by any Court or officer to execute a bond with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

514. (*1*) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(*2*) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(*3*) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the [1][attachment] and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(*4*) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(*5*) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(*6*) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond [2]* * *

[3][(*7*) When any person who has furnished security under section 106 or section 118 or section 562 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 514B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.]

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 139, for "distress".

[2] The words "but the party who gave the bond may be required to find a new surety" rep. by s. 139, *ibid.*

[3] Inserted by s. 139, *ibid.*

[1][514A. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 514, the Court by whose order such bond was taken, or a Presidency Magistrate or Magistrate of the first class, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order. Procedure in case of insolvency or death of surety or when a bond is forfeited.

514B. When the person required by any Court or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.] Bond required from a minor.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him. Appeal from, and revision of, orders under section 514.

[2][515. *All orders passed under section 514 by an Executive Magistrate other than the District Magistrate shall be appealable to the District Magistrate and by a Judicial Magistrate other than a Presidency Magistrate to the Sessions Judge and if no appeal is made against such orders they may be revised in the case of the orders passed by an Executive Magistrate by the District Magistrate and in the case of the orders passed by a Judicial Magistrate by the Sessions Judge.*] *Appeal from, and revision of, orders under section 514.*

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session. Power to direct levy of amount due on certain recognizances.

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[3][CHAPTER XLIIA.

Of Costs to be paid by the Complainant or Informant.

516AA. (*1*) *If in any case instituted upon complaint or upon information given to a Police Officer or to a Magistrate the accused is ordered to be discharged or acquitted by any court (including a Court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A and if such Court is of the opinion that the complaint was made or the information was given* *Power to order costs against complainant or informant.*

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 140.
[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for the original s. 515.
[3] Chap. XLIIA was inserted by Bom. 46 of 1948, s. 3.

without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person; or if the complainant or informant is not present, direct the issue of a notice to him to appear and show cause as aforesaid.

(2) The Court shall record and consider any cause which such complainant or informant may show and may make an order directing him to pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fees which the Court considers reasonable.

(3) The Court may, by the order directing payment of costs under sub-section (2), further order that in default of payment the person ordered to pay such costs shall suffer simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code, shall, so far as may be, apply. XLV of 1860.

(5) No person who has been directed to pay costs by an order made under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or informantion given by him.

(6) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or informant may, within sixty days from the date of the order, appeal against it to the Court of Session.

(7) In cases where the order is appealable under sub-section (6), the costs shall not be paid before

the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided and in other cases the costs shall not be paid before the expiration of one month from the date of the order.]

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

Order for custody and disposal of property pending trial in certain cases.

[1][**516A.** When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and if the property is subject to speedy or natural decay, [2][or if it is otherwise expedient so to do, the Court] may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.]

Order for disposal of property regarding which offence committed.

517. (*1*) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal [3][by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise] of any property or document produced before it or in its custody or regarding which any offence appears to have committed, or which has been used for the commission of any offence.

(*2*) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

[4][(*3*) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay, and save as provided by sub-section (*4*), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(*4*) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (*1*) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.]

Explanation.—In this section the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

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[1] Inserted by Act 18 of 1923, s. 141.
[2] Inserted by Act 26 of 1955, s. 102.
[3] Inserted by Act 18 of 1923, s. 142.
[4] Inserted by s. 142, *ibid.*

Order may take form of reference to District or Sub-divisional Magistrate.

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered to the District Magistrate or to a Sub-divisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Order may take form of reference to [2][*Presidency, District or Sub-divisional Magistrate*].

518. In lieu of itself passing an order under section 517, the Court may direct the property to be delivered [1][*in Greater Bombay, to a Presidency Magistrate specially empowered by the State Government and elsewhere, to the District Magistrate or a Sub-divisional Magistrate*] who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

521. (*1*) On a conviction under the Indian Penal Code, section 292, section 293 section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted. XLV of 1860

(*2*) The Court may, in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed. XLV of 1860

Power to restore possession of immoveable property.

522. (*1*) Whenever a person is convicted of an offence attended by criminal force [3][or show of force or by criminal intimidation] and it appears to the Court that by such force [3][or show of force or criminal intimidation] any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, [3][when convicting such person or at any time within one month from the date of the conviction] order [4][the person dispossessed] to be restored to the possession of the same.

(*2*) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

[3][(*3*) An order under this section may be made by any Court of appeal, confirmation, reference or revision.]

Procedure by police upon seizure of property taken under section 51 or stolen.

523. (*1*) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal such property or the delivery of such property to the person entitled to the

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[1] Substituted by Bom. 34 of 1953, s. 9 (*1*), for "to the District Magistrate or to a Sub-divisional Magistrate".

[2] Substituted, *ibid.*, s. 9 (*2*), for "District or Sub-divisional Magistrate".

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 143.

[4] Substituted by s. 143, *ibid.*, for "such person".

possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

(*2*) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation. Procedure where owner of property seized unknown.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the State Government and may be sold under the orders of the Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, or of a Magistrate of the first Class empowered by the State Government in this behalf. Procedure where no claimant appears within six months.

524. (*1*) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shallbe at the disposal, of the [1][[2][State] Government] and may be sold under the orders of the Presidency Magistrate, District Magistrate, or Sub-divisional Magistrate, or [3][*of an Executive Magistrate*]empowered by the [4][[2][State] Government] in this behalf. Procedure where no claimant appears within six months.

(*2*) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

525. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, [5][or if the Magistrate] to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, [6][or that the value of such property is less than ten rupees] the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale. Power to sell perishable property.

CHAPTER XLIV.

Of the Transfer of Criminal Cases.

526. (*1*) Whenever it is made to appear to the High Court:—

(*a*) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(*b*) that some question of law of unusual difficulty is likely to arise, or

(*c*) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(*d*) that an order under this section will tend to the general convenience of the parties or witnesses, or

High Court may transfer case or itself try it.

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[1] Substituted by the A. O. 1937 for "Govt.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "of a Magistrate of the first class".
[4] Substituted by the A. O. 1937 for "L. G.".
[5] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 144, for "or the Magistrate".
[6] Inserted by s. 144, *ibid.*

(*e*) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order—

(*i*) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;

(*ii*) that any particular [1]* case or appeal, or class of [2]* cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(*iii*) that any particular [1]* case or appeal be transferred to and tried before itself; or

(*iv*) that an accused person be committed for trial to itself or to a Court of Session.

[3][(*1A*) Notwithstanding anything contained in sub-section (*1*) no application shall lie to the High Court for the exercise of its powers under the said sub-section for transferring any case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.]

(*2*) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(*3*) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(*4*) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(*5*) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if [4][so ordered], pay [5][any amount which the High Court [6][may under this section award by way of compensation] to the person opposing the application.]

Notice to Public Prosecutor of application under this section.

(*6*) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

[7][(*6A*) Where any application for the exercise of the power conferred by this section is dismissed, the High Court may if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of [8][compensation] to any person who has opposed the application [9][such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case].]

(*7*) Nothing in this section shall be deemed to affect any order made under section 197.

Adjournment on application under this section.

[10][(*8*) If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section [11][or under section 528]

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[1] The word "criminal" rep. by Act 18 of 1923, s. 145.

[2] The word "such" rep. by s. 145, *ibid.*

[3] Inserted by Act 26 of 1955, s. 103 (*a*).

[4] Substituted by Act 18 of 1923, s. 145, for "convicted".

[5] Substituted by s. 145, *ibid.*, for "the costs of the Prosecutor".

[6] Substituted by the Code of Criminal Procedure (Amendment) Act, 1932 (21 of 1932), s. 2, for "has power under this section to award by way of costs".

[7] Inserted by Act 18 of 1923, s. 145.

[8] Substituted by Act 21 of 1932, s. 2, for "costs".

[9] Substituted by s. 2, *ibid.*, for "any expenses reasonably incurred by such person in consequence of the application".

[10] Substituted by s. 2, *ibid.*, for the original sub-section (*8*).

[11] Inserted by Act 26 of 1955, s. 103 (*b*) (*i*).

the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon :

Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party [1][if the application is intended to be made to the same Court to which the party has been given an opportunity of making such an application], or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.]

[2][(*9*) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (*8*) if he is of opinion that the person notifying his intention of making an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.]

[3][*Explanation.*—Nothing contained in sub-section (*8*) or sub-section (*9*) restricts the powers of a Court under section 344.

(*10*) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.]

High Court to transfer for trial to itself in certain cases.

[4][**526A.** (*1*) Where any person subject to the [5]Naval Discipline Act [6][other than a person to whom that Act applies by virtue of the Indian Navy (Discipline) Act, 1934)] or to the [5]Army Act or to the Air Force Act is accused of any offence such as is referred to in proviso (*a*) to section 41 of the Army Act, the Advocate General shall, if so instructed by the competent authority, apply to the High Court for the committal or transfer of the case to that High Court and thereupon the High Court shall order that the case be committed for trial to or be transferred to itself and shall thereafter proceed to try the case by jury.

29 and 30 Vict., c. 109. 44 and 45 Vict., c. 58. 7 & 8 Geo. 5 c. 51.

(*2*) The [7][Central Government] may, by notification in the [8][Official Gazette] declare any officer to be the competent authority for the purpose of issuing instructions under sub-section (*1*) in regard to any class of cases specified in the notification.]

Power of Supreme Court to transfer cases and appeals.

[9][**527.** (*1*) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court.

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[1] Inserted by Act 26 of 1955, s. 103 (*b*) (*ii*).
[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 145, for the original sub-section (*9*).
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1932 (21 of 1932), s. 2.
[4] Inserted by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 32.
[5] Coll. Stat.
[6] Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.
[7] Substituted by the A. O. 1937 for "G. G. in C.".
[8] Substituted, *ibid*, for "*Gazette of India*".
[9] Substituted by Act 23 of 1952, s. 2, for the original s. 527.

(*2*) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion which shall, except when the applicant is the Attorney-General of India or the Advocate-General, be supported by affidavit or affirmation.

(*3*) The court to which such case is transferred may act on the evidence already recorded or partly so recorded and partly recorded by itself, or it may re-summon the witnesses and recommence the inquiry or trial:

Provided that in any case so transferred the person accused may, when the court to which the case is transferred commences its proceedings, demand that the witnesses or any of them be re-summoned and reheard.

(*4*) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.]

Sessions Judge may withdraw cases from Assistant Sessions Judge.

528. [1][(*1*) Any Sessions Judge may withdraw [2][any case or appeal] from, or recall [2][any case or appeal] which he has made over to, any Assistant Sessions Judge subordinate to him.]

[3][(*1A*) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, any Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(*1B*) Where a Session Judge withdraws or [4][recalls a case or appeal under sub-section (*1*) or sub-section (*1A*)], he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.]

[5][(*1C*) Any Sessions Judge, on an application made to him in this behalf, may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from one Criminal Court to another Criminal Court in the same sessions division.]

District or Sub-divisional Magistrate may withdraw or refer cases.

(*2*) Any Chief Presidency Magistate, District Magistrate or Sub-divisional Magistrate may withdraw any case from or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

[6][*Chief Presidency Magistrate or Sessions Judge*] may withdraw or refer cases.

[6][(*2*)] Any Chief Presidency Magistrate, [7][*or Sessions Judge*] may withdraw any case from or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorize District Magistrate to withdraw classes of cases.

[6][(*3*)] The [9][10][State] Government] may authorize the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

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[1] Inserted by Act 18 of 1923, s. 147.
[2] Substituted by Act 26 of 1955, s. 104 (*a*), for the words "any case".
[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1946 (3 of 1946), s. 2.
[4] Substituted by Act 26 of 1955, s. 104 (*b*), for the original portion.
[5] Inserted, *ibid.*, s. 104 (*c*).
[6] The original sub-sections (*1*), (*2*) and (*3*) were re-numbered (*2*), (*3*) and (*5*), respectively, by Act 18 of 1923, s. 147.
[7] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "District Magistrate or Sub-divisiona Magistrate".
[8] Substituted, *ibid*, s. 2 and Sch. Pt. I, for "District or Sub-divisional Magistrate".
[9] Substituted by the A. O. 1937 for "L. G.".
[10] Substituted by the A. O. 1950 for "Provincial".

[1][(*3A*) Where the District Magistrate authorised under sub-section (*3*) withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same.]

[2][(*4*) Any Magistrate may recall any case made over by him under section 192, sub-section (*2*), to any other Magistrate and may inquire into or try such case himself.]

[3][(*5*)] A Magistrate making an order under this section shall record in writing his reasons or making the same.

(*6*) The head of a village under the Madras Village Police Regulation, 1816, or the Madras Village Police Regulation, 1821, is a Magistrate for the purposes of this section.

[4][(*6*) *For the purposes of this section, a Police patel appointed under section 5 of the Bombay Village Police Act, 1867, shall be a Magistrate subordinate to the District Magistrate.*]

Bom. VIII of 1867.

[*CHAPTER XLIVA—Supplementary provisions relating to European and Indian British Subjects and others.*] *Repealed by the Criminal Law (Removal of Racial Discriminations Act, 1949 (XVII of 1949), s. 3 (with effect from the 6th April 1949).*

CHAPTER XLV.

OF IRREGULAR PROCEEDINGS.

Irregularities which do not vitiate proceedings.

529. If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search warrant under section 98;

(*b*) to order, under section 155, the police to investigate an offence;

(*c*) to hold an inquest under section 176;

(*d*) to issue process, under section 186; for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 190, sub-section (*1*), clause (*a*) or clause (*b*);

(*f*) to transfer a case under section 192;

(*g*) to tender a pardon under section 337 or section 338;

(*h*) to sell property under section 524 or section 525; or

(*i*) to withdraw a case and try it himself under section 528;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

530. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 88;

(*b*) issues a search-warrant for a letter, parcel or other thing in the Post Office, or a telegram in the Telegraph Department;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order under section 133 as to a local nuisance;

(*h*) prohibits, under section 143, the repetition or continuance of a public nuisance;

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[1] Inserted by Bom. 8 of 1954, s. 2 and Sch. Pt. I.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 147.

[3] The original sub-sections (*1*), (*2*) and (*3*) were re-numbered (*2*), (*3*) and (*5*), respectively, *ibid.*, s. 147.

[4] Substituted for the original sub-section (*6*) by Bom. 30 of 1946, s. 2.

(*i*) issues an order under section 144 ;

(*j*) makes an order under Chapter XII ;

(*k*) takes cognizance, under section 190, sub-section (*1*), clause (*c*), of an offence ;

(*l*) passes a sentence, under section 349, on proceedings recorded by another Magistrate ;

(*m*) calls under section 435, for proceedings ;

(*n*) makes an order for maintenance ;

(*o*) revise, under section 515, an order passed under section 514 ;

(*p*) tries an offender ;

(*q*) tries an offender summarily ; or

(*r*) decides an appeal ;

his proceedings shall be void.

Proceedings in wrong place.

531. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

When irregular commitments may be validated.

532. (*1*) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

(*2*) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

Non-compliance with provisions of section 164 or 364.

533. (*1*) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded ; and, notwithstanding anything contained in the Indian Evidence Act, 1872, section 91, such statement shall be admitted if the error has not injured the accused as to his defence on the merits. I of 1872.

(*2*) The provisions of this section apply to Courts of Appeal, Reference and Revision.

534. [*Omission to give information under section 447.*] *Rep. by Act 17 of 1949, s. 3 (16).*

Effect of omission to prepare charge.

535. (*1*) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Trial without jury of offences triable by jury.

[1][536. If an offence triable by a jury is tried without a jury, the trial shall not on that ground only be invalid, unless the objection is taken before the Court proceeds to record evidence in the case.]

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

537. [2]Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

(*a*) of any error, omission or irregularity in the complaint, summons, warrant, [3]* proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

[4][(*b*) of any error, omission or irregularity in the charge, including any misjoinder of charges, or]

(*c*) of the omission to revise any list of jurors [5]* * in accordance with section 324, or

(*d*) of any misdirection in any charge to a jury unless such error, omission, irregularity, [6]* or misdirection has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

[7]* * * * *

Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

538. No [8][attachment] made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of [8][attachment] or other proceedings relating thereto.

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[1] Substituted by Act 26 of 1955, s. 105, for the original.

[2] In the Sonthal Parganas, orders are not reversible on appeal or revision on technical grounds one—*see* the Sonthal Parganas Justice Regulation, 1893 (5 of 1893), s. 4 (VII).

[3] The word "charge" was deleted by Act 26 of 1955, s. 106 (*i*).

[4] Clause (*b*) was inserted, *ibid.*, s. 106 (*ii*).

[5] The words "or assessors" were omitted, *ibid.*, s. 106 (*iii*).

[6] The word "want" rep. by Act 18 of 1923, s. 148.

[7] The *Illustration* rep. by s. 148, *ibid.*

[8] Substituted by s. 149, *ibid.*, for "distress".

CHAPTER XLVI.

MISCELLANEOUS.

Courts and persons before whom affidavits may be sworn.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the [1][Clerk of the State], or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in [2][India], or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorized to take affidavits or affirmations in Scotland.

Affidavit in proof of conduct of public servant.

[3][**539A.** (*1*) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

(*2*) Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

Authorities before whom affidavits may be sworn.

539AA. (*1*) An affidavit to be used before any Court other than a High Court under section 510A or section 539A may be sworn or affirmed in the manner prescribed in section 539 or before any Magistrate.

(*2*) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.]

Local inspection.

[4][**539B.** (*1*) Any Judge or Magistrate may at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(*2*) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost :

Provided that, in the case of a trial by jury [5]* , the Judge shall not act under this section unless such jury [6]* are also allowed a view under section 293.]

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[1] Substituted by the A. O. 1950 for "Clerk of the Crown".

[2] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act 1 of 1951 to read as above.

[3] Inserted by Act 26 of 1955, s. 107.

[4] Inserted by Act 18 of 1923, s. 105.

[5] The words "or with the aid of assessors" were omitted by Act 26 of 1955, s. 108 (*i*).

[6] The words "or assessors" were omitted, *ibid*, s. 108 (*ii*).

[1][**539C.** *Any Magistrate shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by the Bombay Public Authorities Seals Act, 1883, or any other law for the time being in force.*] *Other powers of Magistrates.*

Bom. V of 1883.

[2][**539D.** *Any Justice of the Peace (not being a legal practitioner) shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix such seal thereon as may be prescribed by the State Government by notification in the Official Gazette.* *Attestation, etc., of documents and use of seal by Justices of the Peace.*

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case. **Power to summon material witness or examine person present.**

[3][**540A.** [4][(*1*) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.] **Provision for inquiries and trial being held in the absence of accused in certain cases.**

(*2*) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.]

541. (*1*) Unless when otherwise provided by any law for the time being in force, the [5][6][State] Government] may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined. **Power to appoint place of imprisonment.**

(*2*) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a Civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail. **Removal to criminal jail of accused or convicted persons who are in confinement in civil jail and their return to the civil jail.**

(*3*) When a person is removed to a criminal jail under [7][sub-section (*2*)] he shall, on being released therefrom, be sent back to the civil jail,

[1] Inserted by Bom. 78 of 1948, s. 2.
[2] Inserted by Bom. 71 of 1954, s. 6.
[3] Inserted by Act 18 of 1923, s. 151.
[4] Inserted by Act 26 of 1955, s. 109.
[5] Substituted by the A. O. 1937 for "L. G".
[6] Substituted by the A. O. 1950 for "Provincial".
[7] Substituted by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I, for "sub-section (*1*)".

unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure[1]; or XIV of 1882.

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure[1]. XIV of 1882.

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

542. (*1*) Notwithstanding anything contained in the Prisoners' Testimony Act, 1869,[2] any Presidency Magistrate desirous of examining as a witness or an accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination. XV of 1869.

(*2*) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Interpreter to be bound to interpret truthfully.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Expenses of complainants and witnesssss.

544. Subject to any rules made by the [3][[4]State] Government], [5]* * * * any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

Power of Court to pay expenses or compensation out of fine.

545. (*1*) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or [6][a sentence (including a sentence of death) of which fine forms a part] the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) in defraying expenses properly incurred in the prosecution;

[7][(*b*) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;]

[8](*bb*) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death;] XIII of 1855.

[9][(*c*) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of,

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[1] *See* now the Code of Civil Procedure, 1908 (5 of 1908), s. 58 and the Provincial Insolvency Act, 1920 (5 of 1920), s. 27.

[2] *See* now the Prisoners Act, 1900 (3 of 1900).

[3] Substituted by the A. O. 1937 for "L. G.".

[4] Substituted by the A. O. 1950 for "Provincial".

[5] The words "with the previous sanction of the G. G. in C." rep. by the Devolution Act, 1920 (38 of 1920), s. 2 and Sch. I.

[6] Substituted by Act 26 of 1955, s. 110 (*i*), for the original.

[7] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 152, for the original cl. (*b*).

[8] Clause (*bb*) was inserted by Act 26 of 1955, s. 110 (*ii*).

[9] Inserted by Act 18 of 1923, s. 152.

stolen property knowing or having reason to believe the same to be stolen, in compensating any *bona fide* purchaser, of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.]

(*2*) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of, the appeal.

Payments to be taken into account in subsequent suit.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

Order of payment of certain fees paid by complainant in non-cognizable cases.

[1][**546A.** (*1*) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may in addition to the penalty imposed upon him, order him to pay to the complainant—

(*a*) the fee (if any) paid on the petition of complaint or for the examination of the complainant, and

(*b*) any fees paid by the complainant for serving processes on his witnesses or on the accused,

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(*2*) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision.]

Moneys ordered to be paid recoverable as fines.

547. Any money (other than a fine) payable by virtue of any order made under this Code, [2][and the method of recovery of which is not otherwise expressly provided for] shall be recoverable as if it were a fine.

Copies of proceedings.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record he, shall, on applying for such copy, be furnished therewith :

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to military authorities of persons liable to be tried by Court-martial.

44 & 45 Vict., c. 58 & 29 & 30 Vict., c. 109.

549. (*1*) The [3][Central Government] may make rules consistent with this Code and the [4][Army Act [5], the Naval Discipline Act and [6]* * * * the Indian Navy (Discipline) Act, 1934,] and the Air Force Act and] any similar law for the time being in force as to the cases in which persons subject to [7][military, [5][naval] or air force law], shall be tried by a Court to which this Code applies, or by Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable, [8][to be tried either by a Court to which this Code applies or by a Court-martial], such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding

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[1] Inserted by Act 18 of 1923, s. 153.

[2] Inserted by s. 154, *ibid.*

[3] Substituted by the A. O. 1937 for "G. G. in C.".

[4] Substituted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "Army Act, or".

[5] Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[6] The words "that Act as modified by" were omitted by the A. O. 1950.

[7] Substituted by Act 10 of 1927, s. 2 and Sch. I, for "miliary law".

[8] Substituted by Act 35 of 1934, s. 2 and Sch., for "under the Army Act, section 41, or under the Air Force Act, section 41, to be tried by a Court-martial."

officer of the regiment, corps, [1][ship] or detachment, to which he belongs, or to the commanding officer of the nearest [2][military, [1][naval] or air-force station, as the case may be,] for the purpose of being tried by Court-martial.

Apprehension of such persons.

(*2*) Every Magistrate, shall, on receiving a written application for that purpose by the commanding officer of any body of [3][soldiers, sailors, or airmen] stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers to Police to seize property suspected to be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed as may be exercised by such officer within the limits of his station.

Power to compel restoration of abducted females.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of [4][eighteen] years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Compensation to person groundlessly given in charge in presidency-town.

553. (*1*) Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(*2*) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(*3*) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

Power of chartered High Courts to make rules for inspection of records of subordinate Courts.

554. (*1*) [5][With the previous sanction of the [6][State] Government, [7][any High Court [8][for a Part A State or a Part B State]] may, from time to time, make rules for the inspection of the records of subordinate Courts.

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[1] Inserted by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[2] Substituted by Act 10 of 1927, s. 2 and Sch. I, for "military station".

[3] Substituted by Act 35 of 1934, s. 2 and Sch., for "troops".

[4] Substituted by the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949 (42 of 1949), s. 5, for "Sixteen" which had been substituted by the Indian Criminal Law Amendment Act, 1924 (18 of 1924), s. 5, for "Fourteen".

[5] Substituted by the A. O. 1937 for "With the previous sanction of the G. G. in C., the High Court at Fort Williams, and with the previous sanction of the L. G., any other High Court".

[6] Substituted by the A. O. 1950 for "Provincial".

[7] Substituted, *ibid.*, for "any High Court within the meaning of the Government of India Act, 1935, other than the Chief Court of Oudh".

[8] Substituted by Act 1 of 1951, s. 22, for "for a Part A State".

[1][*(1A) With the previous sanction of the* [2][*State*] *Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay.*] *Power of High Court of Bombay to make rules for Court of Session for Greater Bombay.*

(2) Every High Court, [3][not being a High Court to which sub-section (1) applies] may, from time to time, and with the previous sanction of the [4][[State] Government],— **Power of other High Courts to make rules for other purposes.**

(a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(c) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(d) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the [5][Official Gazette].

555. Subject to the power conferred by section [6][554], and by [7][article 227 of the Constitution] the forms set forth in the fifth schedule, with such variation as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient. **Forms.**

[8][555A. (1) Every High Court may, from time to time, and with the previous approval of the State Government, make rules— **Power of High Court to make rules in respect of petition writers.**

(a) as to the persons who may be permitted to act as petition writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licence to such persons, the conduct of business by them and the scale of fees to be charged by them; and

(c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed:

Provided that the rules made under this section shall not be inconsistent with this Code or any other law in force for the time being.

(2) All rules made under this section shall be published in the *Official Gazette*.]

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[1] Inserted by Bom. 32 of 1948, s. 27.
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted by the A. O. 1948 for "not established by Royal Charter".
[4] Substituted by the A. O. for "L. G.".
[5] Substituted by the A. O. 1937 for "local official Gazette".
[6] Substituted by the Amending Act, 1903 (1 of 1903), for "553".
[7] Substituted by the A. O. 1950 for "section 224 of the Government of India Act, 1935"
[8] Inserted by Act 26 of 1955, s. 111.

Case in which Judge or Magistrate is personally interested.

556. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise concerned therein in a public capacity or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connction with the case.

Illustration.

A, as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws. A is disqualified from trying this case as a Magistrate.

Practising pleader not to sit as Magistrate in certain Courts.

557. No pleader who practises in the Court of any Magistrate in a presidency town or district, shall sit as a Magistrate, in such Court or in any Court within the jurisdiction of such Court.

Power to decide language of Courts.

558. The [1][[2][State] Government] may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than [3][a High Court for a Part A State] [4][or a Part B State].

Provision for powers of Judges and Magistrates being exercised by their successors in office.

[5][**559.** (*1*) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(*2*) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magsitrate in a Presidency-town, and the District Magistrate outside such towns, shall determine by order in writing the Magistrate who shall, for the purpose of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(*2*) When there is any doubt as to who is the successor in office of any Magistrate, the Chief Presidency Magistrate in a Presidency-town, and [6][*outside such towns, the Sessions Judge in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates,*] shall determine by order in writing the Magistrate who shall, for the purpose of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Magistrate.

(*3*) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted, *ibid*, for "the Courts which are High Courts for the purposes of the Government of India Act, 1935".
[4] Inserted by Act I of 1951, s. 23.
[5] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 155, for the original s. 559.
[6] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "the District Magistrate outside such towns".

the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional or Assistant Sessions Judge.]

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property. Officers concerned in sales not to purchase or bid for property.

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall— Special provisions with respect to offence of rape by a husband,

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

(*2*) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate, or District Magistrate deems it necessary to direct an investigation by a police officer with respect to such an offence as is referred to in sub-section (*1*), no police officer of a rank below that of police-inspector shall be employed either to make, or to take part in the investigation.

561. (*1*) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or [1][*a Magistrate of the first class*] shall— Special provisions with respect to offence of rape by a husband.

(*a*) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or

(*b*) commit the man for trial for the offence.

(*2*) And, notwithstanding anything, in this Code, if a Chief Presidency Magistrate or [1][*a Magistrate of the first class*] deems it necessary to direct an investigation by a police officer, with respect to such an offence as is referred to in sub-section (*1*), no police officer of a rank below that of police-inspector shall be employed either to make, or to take part in the investigation.

[2][**561A.** Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.] Saving of inherent power of High Court.

First Offenders.

[3][**562.** (*1*) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or [4][imprisonment for life], and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to punishment.

[1] Substituted by Bom. 23 of 1951, s. 2, and Sch., Pt. I, for "District Magistrate".
[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923) s. 156.
[3] Substituted by Act 18 of 1923, s. 157, for original s. 562. This section has been rep. in U. P. by the U. P. First Offenders' Probation Act, 1938 (U. P. 6 of 1938), s. 15.
[4] Substituted by Act 26 of 1955, s. 112, for "transportation for life".

of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the mean-time to keep the peace and be of good behaviour :

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the State Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class or Sub-divisional Magistrate forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the [1][2][State] Government] in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class [3]* * * * * *, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

Conviction and release with admonition.

[4][(*1A*) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.] XLV of 1860.

(*2*) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(*3*) When an order has been made under this section in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law :

Provided that the High Court shall not under this sub-section inflict a greater punishment then might have been inflicted by the Court by which the offender was convicted.

(*4*) The provisions of sections 122, 126A and 406A shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.]

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[1] Substituted by the A. O. 1937 for "L. G. ".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] The words "or Sub-divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[4] Inserted by the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923), s. 4.

Provision in case of offender failing to observe conditions of his recognizances.

[1]563. (*1*) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(*2*) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

Conditions as to abode of offender.

[1]564. (*1*) The Court, before directing the release of an offender under section 562, [2][sub-section (*1*)], shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(*2*) Nothing in this section or in sections 562 and 563 shall affect th provisions of section 31 of the Reformatory Schools Act, 1897.

VIII of 1897.

Previously convicted offenders.

Order for notifying address of previously convicted offender.

565. (*1*) When any person having been convicted—

(*a*) by a Court in India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or

XLV of 1860.

(*b*) before the 26th day of January, 1950, by a Court or Tribunal in any Indian State acting under the general or special authority of the Central Government or of the Crown

[565. (*1*) When any person having been convicted—

Order for notifying address of previously convicted offender.

(*a*) by a Court in [4][India] of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment of either description for a term of three years or upwards, or

XLV of 1860.

(*b*) [5][before the 26th day of January, 1950, by a Court or Tribunal] in [6][any Indian State acting under the general or special authority of the Central Government or of the

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[1] Ss. 563 and 564 have been rep. in U. P. by the U. P. First Offenders' Probation Act, 1938 (U. P. 6 of 1938), s. 15.

[2] Inserted by the Repealing and Amending Act, 1924 (7 of 1924), s. 2 and Sch. I.

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 158, for the original s. 565.

[4] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act I of 1951 to read as above.

[5] Substituted by the A. O. 1950 for "by a Court or Tribunal".

[6] Substituted by the A. O. 1937 for "the territories of any Prince or State in India acting under the general or special authority of the G. G. in C., of any L. G.".

Representative, of any offence which would, if committed in India, have been punishable under any of the aforesaid sections or Chapters of the Indian Penal Code with like imprisonment for a like term, XLV of 1860.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

Crown Representative], of any offence which would, if committed in [1][India], have been punishable under any of the aforesaid sections or Chapter of the Indian Penal Code with like imprisonment for a like term, XLV of 1860.

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate [2]* * * * * or Magistrate of the first class, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of [3]* imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(*2*) If such conviction is set aside on appeal or otherwise, such order shall become void.

(*3*) The [4][[5][State] Government] may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(*4*) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

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[1] The words "British India" have successively been substituted by the A. O. 1948, A. O. 1950 and Act I of 1951 to read as above.

[2] The words "District Magistrate, Sub-divisional Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[3] The words "transportation or" were deleted by Act 26 of 1955, s. 113.

[4] Substituted by the A. O. 1937 for "L. G.".

[5] Substituted by the A. O. 1950 for "Provincial".

[1]* * * * * * * *

[2][(5) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated.]

SCHEDULE I.—[*Enactments repealed.*] *Rep. by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II.*

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[1] Sub-section (5) rep. by the Criminal Law (Amendment) Act, 1939 (22 of 1939), s. 3.
[2] The former sub-section (6) was re-numbered (5), *ibid.*, s. 3.

SCHEDULE II.*

TABULAR STATEMENT OF OFFENCES.

Explanatory Note.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code" are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay.

CHAPTER V.—ABETMENT.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.

110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	..	Ditto	...	Ditto	...	Ditto	...	Ditto	Ditto.
111	Abetment of any offence when one act is abetted and a different act is done; subject to the proviso.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	The same punishment as for the offence intended to be abetted.	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	The same punishment as for the offence committed.	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
115	Abetment of an offence, punishable with death or imprisonment for life if the offence be not committed in consequence of the abetment.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.

* In the 2nd and 7th columns of this Schedule for the words "transportation of life" the words "imprisonment for life" have been substituted by Act 26 of 1955, s. 114 (e) (i).

SCHEDULE II—*contd.*

CHAPTER V.—ABETMENT—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
115—*contd.*	If an act which causes harm be done in consequence of the abetment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable ...	According as the offence abetted is compoundable or not.	Imprisonment of either description for 14 years and fine.	The Court by which the offence abetted is triable.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto. ...	According as the offence abetted is bailable or not.	Ditto ...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or imprisonment for life if the offence be committed.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed.	Ditto	...	Ditto	...	[1][Bailable]	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto	...	Ditto	...	According as the offence abetted is bailable or not.		Ditto	...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or imprisonment for life.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years.	Ditto.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.

SCHEDULE II—*contd.*

CHAPTER V.—ABETMENT—*concld.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
119—*contd.*	If the offence be not committed.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	[1][Bailable] ...	According as the offence abetted is compoundable or not.	Imprisonment extending to a quarter part of the longest term and of any description, provided for the offence, or fine, or both.	The Court by which the offence abetted, is triable.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	[1][According as the offence concealed is bailable or not.]	Ditto ...	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.

	If the offence be not committed.	Ditto ...	Ditto ...	[1][Bailable] ...	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

[2][CHAPTER VA.—CRIMINAL CONSPIRACY.

120B	Criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards.	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence which is the object of the conspiracy.	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable.	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy.	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such Court: in the case of all other offences Court of Session, Presidency Magistrate or Magistrate of the first class.
	Any other criminal conspiracy.	Shall not arrest without a warrant.	Summons ...	Bailable ...	Ditto ...	Imprisonment of either description for six months or fine, or both.	Presidency Magistrate or Magistrate the first class.]

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.
[2] Inserted by the Indian Criminal Law Amendment Act, 1913 (8 of 1913), s. 6 and Sch.

SCHEDULE II—*contd.*

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the [1][Government of India].	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Death, or imprisonment for life and [2][fine].	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or any shorter term, or imprisonment of either description for 10 years [3][and fine].	Ditto.
122	Collecting arms, etc., with the intention of waging war against the [1][Government of India.]	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years, and [2][fine].	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.

124	Assaulting [4][President], Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Sedition ...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for life or for any term, and fine, or imprisonment of either description for 3 years and fine or fine.	Court of Session, Chief Presidency Magistrate [5] * * * or Magistrate of the first class specially empowered by the [6][7][State] Government] in that behalf [8][*in consultation with the High Court.*]
125	Waging war against any Asiatic Power in alliance or at peace with the [1][Government of India] or abetting the waging of such war.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any Power in alliance or at peace with the [1][Government of India.]	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.

[1] Substituted by the A. O. 1950 for "Queen".
[2] Substituted for "forfeiture of property" by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.
[3] Inserted by s. 159, *ibid.*
[4] Substituted by the A. O. 1950 for "Governor General".
[5] The words "or District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[6] Substituted by the A. O. 1937 for "L. G.".
[7] Substituted by the A. O. 1950 for "Provincial".
[8] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

SCHEDULE II—*contd.*

CHAPTER VI.—OFFENCES AGAINST THE STATE—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine and forfeiture of certain property.	Court of Session.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto ...	Ditto ...	Ditto	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the First Class.

130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years and fine.	Court of Session.	

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier [1][sailor or airman] from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years and fine.	Court of Session.	
132	Abetment of mutiny if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Death' or imprisonment for life or imprisonment of either description for 10 years and fine.	Ditto.	
133	Abetment of an assault by an officer, soldier [1][sailor or airman] on his superior officer, when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first Class.	

[1] Substituted by the Repealing and Amending Act, 1927 (X of 1927), s. 2 and Sch. I, for "or sailor".

SCHEDULE II—*contd.*

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, [1][sailor or airman].	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 2 years or fine or both.	Presidency Magistrate or Magistrate of the First or Second Class.
136	Harbouring such an officer, soldier [1][sailor or airman] who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto ...	Fine of 500 rupees.	Ditto.

138	Abetment of act of insubordination by an officer, soldier, [1][sailor or airman] if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, [2][sailor or airman] with intent that it may be believed that he is such a soldier, [2][sailor or airman].	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	[3][*Any Judicial Magistrate.*]

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	[3][*Any Judicial Magistrate.*]
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

[1] Substituted by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch I, for "or sailor".
[2] Inserted by s. 2 and Sch. I, *ibid.*
[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	[1][*Any Judicial Magistrate.*]
147	Rioting ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
148	Rioting armed with a deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

149	If an offence be committed by any member of an unlawful assembly every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto ...	The same as for the offence.	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto ...	Ditto ...	The same as for a member of such assembly and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	[1][*Any Judicial Magistrate.*]
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "any Magistrate".

(Schedule II.—Tabular Statement of Offences. Chapter VIII.—Offences against the Public Tranquillity.)

SCHEDULE II—*contd.*

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
153	Want only giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable	Imprisonment of either description for 1 year, or fine, or both.	[1][*Any Judicial Magistrate.*]
	If not committed ...	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Ditto ...	Imprisonment of either description for 6 months, or fine or both.	Presidency Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto ...	Summons ...	Bailable ...	Ditto ...	Fine of 1,000 rupees.	Presidency Magistrate or Magistrate of the first or second class.

156	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Fine	...	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months, or fine, or both.		Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
[2]*	Or to go armed ...	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.		Ditto.
160	Committing affray...	Shall not arrest without warrant.		Summons	...	Ditto	...	Ditto	...	Imprisonment of either description for one month, or fine of 100 rupees, or both.		[1][*Any Judicial Magistrate.*]

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[2] The figures "159" rep. by the Repealing and Amending Act, 1925 (37 of 1925), s. 3 and Sch. II.

SCHEDULE II—*contd.*

CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	[1][*May* arrest without warrant.]	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 3 years, or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	[1][*Shall not arrest without warrant.*]	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

[1] Substituted by Act 26 of 1955, s. 114 (*b*), for "Shall not arrest without warran
[2] Substituted by Bom. 30 of 1946, s. 3, for "Ditto".

SCHEDULE II—*contd.*

CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
169	Public servant unlawfully buying or bidding for property.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Simple Imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Presidency Magistrate or Magistrate of the first class.
170	Personating a public servant.	May arrest without warrant.	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	[1][*Any Judicial Magistrate.*]
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

[1][CHAPTER IXA.—OFFENCES RELATING TO ELECTIONS.

171E	Bribery ...	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for one year or fine, or both or if treating only, fine only.	Presidency Magistrate or Magistrate of the first class.
[2]171F	Undue influence [3]* * * at an election.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for one year or fine, or both.	Ditto.
	[3][Personation at an election.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
171G	False statement in connection with an election.	[4][Shall not arrest without warrant.]	Ditto ...	Ditto ...	Ditto ...	Fine ...	Ditto.
171H	Illegal payments in connection with elections.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 500 rupees.	Ditto.
171I	Failure to keep election accounts.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Simple Imprisonment for 1 month or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate.*

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[2] Inserted by the Indian Elections Offences and Inquiries Act, 1920 (39 of 1920), s. 3.
[3] This item has been amended in its application to the C. P. by the Code of Criminal Procedure (C. P. Amendment) Act, 1936 (C. P. 19 of 1936), s. 3.
[4] The words "and personation" were deleted by Act 43 of 1951, s. 138 (*see* also Bom. 29 of 1935, s. 3).
[5] Inserted, *ibid.*
[6] Substituted, *ibid.*, for "Ditto.".

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
172 —*contd.*	If summons or notice require attendance in person etc., in a Court of Justice.	Shall [not] arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	[1][*Any Judicial Magistrate.*]
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If summons, etc., require attendance in person etc. in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate.*]
	If the order require personal attendance, etc., in a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
	[1][If the notice or information is required by an order passed under sub section (*1*) of *section 565 of* this code.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If the information required respects the commission of an offence, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for two years, or fine, or both.	Ditto.

178	Refusing oath when duly required to take oath by a public servant.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 1,000 rupees or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	...	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Inserted by the Criminal Law (Amendment) Act, 1939 (22 of 1939), s. 4.

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.

185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to person lawfully employed.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

DIVISIONAL FOREST OFFICE WORKING PLANS, B. C.

SCHEDULE II—*contd.*

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
188—*contd.*	If such disobedience causes danger to human life, health or safety, etc.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto ...	Not bailable ...	Ditto ...	Imprisonment for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Death, or as above.	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with (imprisonment for life) or with imprisonment for 7 years or upwards.	Ditto ...	Ditto ...	[1][Not bailable] ...	Ditto ...	The same as for the offence.	Ditto.

[1] Substituted by the Amending Act, 1903 (I of 1903), s. 3 and Sch. II, Part II, for "Bailable".

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Shall not arrest without warrant.	Warrant ...	According as the offence of giving such evidence is bailable or not.	Not compoundable.	The same as for giving or fabricating false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

	made in any declaration which is by law receivable as evidence.	...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.	
	If punishable with [imprisonment for life] or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.	
	If punishable with less than 10 years' imprisonment.	Ditto ..	Ditto ..	Ditto ..	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.	

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years or fine or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

206	Fraudulent removal or concealment, etc., of property to prevent its seizure as in forfeiture, or satisfaction of a fine under sentence, or in execution of a decree.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonement of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence or in execution of a decree.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Presidency Magistrate or Magistrate of the first class.
209	False claim in a Court of Justice.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, and fine.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If offence charged be punishable with imprisonment for 7 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with [imprisonment for life].	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session.

212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with [imprisonment] for life, or with imprisonment for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, and fine.	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class or Court by which the offence is triable.
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital.	[1][May arrest without warrant.]	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with [imprisonment] for life or with imprisonemnt for 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine or both.	Presidency Magistrate or Magistrate of the first class or Court by which the offence is triable.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
214	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	[1][Shall not arrest without warrant.]	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with [imprisonment for life] or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistate of the first class, or Court by which the offence is triable.

215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	[1][May arrest without warrant.]	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine or both.	Presidency Magistrate or Magistrate of the first class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with [imprisonment for life], or with imprisonment for 10 years.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto	...	Ditto	...	Ditto	...	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto	Ditto	...	Ditto	...	Ditto	...	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
217	Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with [imprisonment for life] or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	International omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
222 —*contd.*	If under sentence of [1][* * [2]* * or] imprisonment [3]* * for 10 years or upwards.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable	Imprisonment of either description for 7 years, with or without fine.	Court of Session.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class

224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension, of another person or rescuing him from lawful custody.	Ditto ...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
	If charged with an offence punishable with imprisonment for life] or imprisonment for 10 years.	Ditto ...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 3 years and fine.	Court of Session-Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence.	Ditto ...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If the person is sentenced to imprisonment for life], [4]* * or imprisonment for 10 years or upwards.	Ditto ...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
	If under sentence of death.	Ditto ...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for life, or imprisonment of either description for 10 years, and fine.	Ditto.

[1] Substituted by Act 35 of 1950, s. 3 and Second Schedule, for "transportation or transportation".
[2] The words "or penal servitude for life" were omitted by Act 17 of 1949, s. 3 (*17*).
[3] The words "or penal servitude" were omitted, *ibid.*
[4] The words "penal servitude" were omitted, *ibid.*

SCHEDULE II—*contd.*

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concld.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for—						
	(*a*) in case of intentional omission or sufferance;	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session Presidency Magistrate or Magistrate of the first class.
	(*b*) in case of negligent omission or sufferance.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	May arrest without warrant.	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

*	*	*	*	*	*	*	*
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto ...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine or both.	Presidency Magistrate or Magistrate of the first class.
		CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.					
231	Counterfeiting, or performing any part of the process of counterfeting, coin.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.

* Entry 226 deleted by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 117, read with Schedule.

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
232	Counterfeiting, or performing any part of the process of counterfeiting, [1][Indian coin].	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting [1][Indian coin].	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

	If [2][Indian coin] ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
236	Abetting in [3][India] the counterfeiting out of [3][India] of coin.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within [3][India].	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export, of counterfeits of [1][Indian coin], knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Substituted by the A. O., 1950, for "the Queen's Coin".
[2] Substituted, *ibid.*, for "Queen's Coin".
[3] Substituted by Act 1 of 1951, s. 2, for "the States".

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
240	The same with respect to [1][Indian coin].	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Presidency Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

243	Possession of [2][Indian coin] by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	...	L...	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of [1][Indian coin].	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 years, and fine.	Ditto.

[1] Substituted by the A. O. 1950 for "the Queen's coin".
[2] Substituted, *ibid.*, for "Queen's coin".

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	*Punishment* under the Indian Penal Code.	By what Court triable.
249	Altering appearance of [1][Indian coin] with intent that it shall pass as a coin of a *different* description.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the *first* class.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto ...	*Ditto* ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of [2][Indian coin] possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chapter XII.—Offences relating to Coin and Government Stamps.)

253	Possession of [2][Indian coin] by a person who knew it to be altered when he became possesesd there of.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 5 years, and fine.	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Presidency Magistrate or Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.

[1] Substituted by the A. O. 1950 for "the Queen's Coin".
[2] Substituted, *ibid.*, for "Queen's Coin".

SCHEDULE II—*contd.*

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concld.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
258	Sale of counterfeit Govrnment stamp.	May arrest without warrant.	Warrant ...	Bailabe ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing anywriting from a substance bearing a Government stamp or removing from a document a stamp used for it with	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years' or fine, or both.	Ditto.

	intent to cause loss to Government.						
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
263A	Fictitious stamps ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees.	Presidency Magistrate or Magistrate of the first class.
		CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.					
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

SCHEDULE II—*contd.*

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
267	Making or selling false weights or measures for fraudulent use.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
		CHAPTER XIV.—OFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.					
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.		Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months or fine, or both.		Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 6 months or fine of 1,000 rupees, or both.		Ditto.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.	...	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

SCHEDULE II—*contd.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate*].
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Fine of 500 rupees.	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Presidency Magistrate or Magistrate of the first or second class.

281	Exhibition of a false light, mark or buoy.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees.	Ditto.
284	Dealing with any poisonous substance, so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	[1][*Any Judicial Magistrate.*]
286	So dealing with any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
287	So dealing with any machinery.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	[*Any Judicial Magistrate.*]

	danger to human life, or of grievous hurt, from such animal.						
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
292	Sale, etc., of obscene books, etc.	Ditto ...	Warrant ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months or fine, or both.	[2][Presidency Magistrate, or Magistrate of the first class.]
293	[2][Sale, etc., of obscene objects of young persons.]	Ditto ...	Ditto ...	Ditto ...	Ditto ...	[2][Imprisonment of either description for 6 months, or fine, or both].	[2][Presidency Magistrate, or Magistrate of the first class.]
294	Obscene songs ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months or fine, or both.	[1][*Any Judicial Magistrate.*]

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[2] Substituted by the Obscene Publications Act, 1925 (8 of 1925), s. 3, for the original entries.

SCHEDULE II—*contd.*

CHAPTER XIV.— OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concld.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
294A	Keeping a lottery office.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	[1][*Any Judicial Magistrate.*]
	Publishing proposals relating to lotteries.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees.	Ditto.
			CHAPTER XV.—OFFENCES RELATING TO RELIGION.				
295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate, or Magistrate of the first or second class.

[1][295A	Maliciously insulting the religions or the religious beliefs of any class.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Presidency Magistrate.]
296	Causing a disturbance to an assembly engaged in religious worship.	[3][May arrest without warrant.]	[3][Summons ...	[2][Bailable] ...	[2][Not compoundable.]	Imprisonment of either description for 1 year, or fine, or both.	[3][Presidency Magistrate or Magistrate of the first or second class.]
297	Trespassing in place of worship or sepulchre, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Compoundable ...	Ditto ...	Ditto.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[2] Inserted by the Criminal Law Amendment Act, 1927 (25 of 1927), s. 3.
[3] Substituted by s. 3, *ibid*, for the original entries.

SCHEDULE II.—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY

Of offences affecting Life.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
302	Murder ...	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable	Death, or imprisonment for life and fine.	Court of Session.
303	Murder by a person under sentence of imprisonment for life.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Death ...	Ditto
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description of 10 years, and fine.	Ditto

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Death, or imprisonment for life or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 10 years, and fine.	Ditto.
307	Attempt to murder.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto ...	Ditto.
	If such act cause hurt to any person.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for life or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Death or as above.	Ditto.

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SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Offences affecting Life—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
308	Attempt to commit culpable homicide.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If such act cause hurt to any person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment, for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
311	Being a thug ...	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment for life and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chapter XVI.—Offences affecting the Human Body.)

	Of the Causing of	*Miscarriage; of Injuries*	*to Unborn Children;*	*of the Exposure of*	*Infants; and of the*	*Concealment of Births.*	
312	Causing miscarriage..	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life] or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of the Causing of Miscarriage: of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 7 years or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class]
318	Concealment of birth by secret disposal of dead body.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description of 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first [2] *class.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	[1][*Any Judicial Magistrate.*]
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ...	Ditto ...	Compoundable when permisson is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Not bailable ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.
[2] The words "or second" rep. by s. 159, *ibid.*
[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Hurt—contd.

1	2	3	4	5	6	7	
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	[1][Court of Session, Presidency Magistrate or Magistrate of the first class].
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	[1][Court of Session.]
329	Voluntarily causing grievous hurt to extort property or	Ditto ...	Ditto ...	Ditto ...	Ditto ...	[Imprisonment for life or imprisonment of	Ditto.

	a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.								either description for 10 years, and fine.	
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	...	Ditto	...	Bailable	...	Ditto	...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto	...	Ditto	...	Not bailable	...	Ditto	...	Imprisonment of either description for 10 years, and fine.	Court of Session.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Hurt—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate.*]
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Ditto ...	Ditto ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees or both.	[1][*Any Judicial Magistrate.*]
337	Causing hurt by an act which endangers human life, etc.	Ditto ...	Ditto ...	Ditto ...	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
			Of Wrongful Restraint and Wrongful Confinement.				
341	Wrongfully restraining any person.	May arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate.*]
342	Wrongfully confining any person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Part I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Wrongful Restraint and Wrongful Confinement—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
343	Wrongfully confining for three or more days.	May arrest without warrant.	Summons ...	Bailable ...	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
344	Wrongfully confining for 10 or more days.	Ditto ...	Ditto ...	Ditto ...	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret.	May arrest without warrent.	Ditto ...	Ditto ...	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Ditto ...	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Ditto ...	Ditto ...	Ditto ...	[1][Not compoundable.]	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), s. 114, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Criminal Force and Assault.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant. or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate.*]
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Compoundable	...	Ditto	...	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	...	Not bailable	...	Not compoundable.		Ditto	...	[1][*Any Judicia Magistrate.*]
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto	...	Bailable	...	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]		Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.		Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	...	Ditto	...	Compoundable	...	Simple imprisonment for 1 month or fine of 200 rupees, or both.		Ditto.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".

[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*contd.*

Of Kidnapping, Abduction, Slavery and Forced Labour.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
363	Kidnapping ...	May arrest without warrant.	Warrant ...	[1][Bailable.] ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abducting in order to murder.	Ditto ...	Ditto ...	[1][Not bailable.] ...	Ditto ...	Imprisonment for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
[1][366A	Procuration of minor girl.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	[1][Court of Session, Presidency Magistrate or Magistrate of the first class.]
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entries.
[2] Inserted by the Indian Penal Code (Amendment) Act, 1923 (20 of 1923), s. 4.

SCHEDULE II—*contd.*

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concld.*

Of Kidnapping, Abduction, Slavery and Forced Labour—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
371	Habitual dealing in slaves.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
374	Unlawful compulsory labour.	[1][Shall not arrest without warrant.]	Ditto ...	Bailable ...	Compoundable ...	Imprisonment of either description for 1 year, or fine, or both.	[2][*Any Judicial Magistrate.*]

	[2][*Of Rape.*						
376	Rape. If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable	Imprisonment of either description for 1 year, or fine, or both.	Court of Session, Chief Presidency Magistrate or [4][*Magistrate of the first class.*]
	If the sexual intercourse was by a man with his own wife being under 12 years of age.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
	In any other case...	May arrest without warrant.	Warrant ...	Not bailable ...	Ditto ...	Imprisonment for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
	Of Unnatural Offences.						
377	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
379	Theft ...	Ditto ...	Ditto ...	Ditto ...	[5][Compoundable when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 3 years, or fine, or both.	[1][*Any Judicial Magistrate.*]

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923, s. 159, for the original entry.
[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[3] Substituted by the Indian Penal Code (Amendment) Act, 1925 (29 of 1925), s. 5, for the original entries.
[4] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt I, for "District Magistrate".
[5] Substituted by Act 26 of 1955, s. 114 (c), for the original entry.

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SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

of Theft.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
380	Theft in a building tent or vessel.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	[1][*Any Judicial Magistrate.*]
381	Theft by clerk or servant of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	[2][Compoundable when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prosecution is pending.]	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
382	Theft, preparation having been made for causing death	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or

	or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.						Magistrate of the first class
			Of Extortion.				
384	Extortion ...	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[2] Substituted by Act 26 of 1955, s. 114 (c), for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Extortion—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
388	Extortion by threat of accusation of an offence punishable with death imprisonment for life or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life.	Ditto.
389	Putting a person in fear of accusation of offence punishable with death, imprisonment for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.

	If the offence be an unnatural offnce.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment	Ditto

Of Robbery and Dacoity.

392	Robbery ...	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Rigorous imprisonment for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Ditto	Imprisonment for life or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Robbery and Dacoity—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
396	Murder in dacoity	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable	Death, imprisonment for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
399	Making preparation to commit dacoity.	Ditto	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years, and fine.	Ditto.

400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto	Imprison ment for life or rigorous imprisonment for 10 years, and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session.
			Of Criminal Misappropriation of Property.				
403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	[1][Compou n d a b l e when persmission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, or fine, or both.	[2][*Any Judicial Magistrate.*]

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.
[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. 1, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Criminal Misappropriation of Property—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If by clerk or person employed by deceased.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust.	May arrest without warrant.	Warrant ...	Not bailable ...	[1][Compoundable when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1]The figures "405" rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159.
[2]Substituted by Act 26 of 1955, s. 114 (*d*), for the original entry.

SCHEDULE —*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of the Receiving of Stolen Property—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Cheating.

417	Cheating ...	Shall not arrest without warrant.	Warrant ...	Bailable ...	[1][Compoun d a b l e when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	P r e s i d e n c y Magistrate or Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	[1][Compound a b l e when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 3 years, or fine, or both,	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto ...	Ditto ...	[1][Compou n d a b l e when permission is given by the Court before which the prosecution is pending.]	Ditto ...	Ditto.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Cheating—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	May arrest without warrant.	Warrant ...	Bailable ...	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Of Fraudulent Deeds and Disposition of Property.						
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	[2][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto,
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
424	Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.
					Of Mischief.						
426	Mischief	...	Shall not arrest without warrant.	Summons	...	Bailable	...	Compoundable when the only loss or damage caused is loss or damage to a private person.		Imprisonment of either description for 3 months, or fine, or both.	[2][*Any Judicial Magistrate.*]

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.
[2] Substituted by Act 26 of 1955, s. 114 (*c*), for the original entry.
[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Mischief—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	[1][Compoundable when permission is given by the Court before which the prosecution is pending]	Ditto ...	Ditto.
429	Mischief by killing, poisioning, maiming or rendering unless any elephant, camel, horse, etc., whatever may be its value	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

	or any other animal of the value of 50 rupees or upwards.							
430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto ...	Ditto ...	Ditto ...	[1][Compound a b l e when permission is given by the Court before which the prosecution is pending.]	Ditto ...	Ditto.	
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto ...	Ditto ...	Ditto ...	[2][Not compoundable.]	Ditto ...	Ditto.	
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Ditto ...	Ditto.	
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.	

[1] Substituted by Act 26 of 1955, s. 114(c), for the original entry.
[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Mischief—concld.

1	2	3	4	5	6	7	
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
434	Mischief by destroying or moving, etc., a land-mark fixed by public authority.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
435	Miscehief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presideny Magistrate or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy, a house, etc.	Ditto ...	Ditto ...	Not bailable ...	Ditto ..	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.

437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprison m e n t for life or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Of Criminal Trespass.

447	Criminal trespass ...	May arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	[1][*Any Judicial Magistrate.*]

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Criminal Trespass—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
448	House-trespass ...	May arrest without warrant.	Warrant ...	Bailable ...	Compoundable ...	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	[1][*Any Judicial Magistrate.*]
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable ...	Not compoundable	Imprisonment for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with imprisonment for life.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.

451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	[2][Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 2 years, and fine.	[1][*Any Judicial Magistrate.*]
	If the offence is theft.	Ditto ...	Ditto ...	Not bailable ...	[2][Not compoundable.]	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault, etc.	Ditto ...	Ditto ...	Ditto ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Ditto.
453	Lurking house-trespass or house-breaking.	Ditto ...	Ditto	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, and fine.	Presidency Magistrate or Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for " Any Magistrate ".
[2] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*contd.*

Of Criminal Trespass—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
454—*contd.*	If the offence is theft.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto. ...	Ditto. ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
	If the offence is theft.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years, and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Previous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

SCHEDULE II—*contd.*

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*concld.*

Of Criminal Trespass—concld.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.						
465	Forgery ...	Shall not arrest without warrant.	Warrant. ...	Bailable ...	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.

467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money etc.	Ditto ...	Ditto ...	Ditto ...	Ditto	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the [1][Central Government].	May arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation on any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.

[1] Substituted by the A. O. 1937 for "G. of I.".

SCHEDULE II——*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
471—*contd.*	When the forged document is a promissory note of the [1][Central Government.]	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable.	Punishment for forgery of such document.	Court of Session.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 7 years, and fine.	Ditto.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

	otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.									
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.	...	Ditto.
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment for life or imprisonment of either description for 7 years, and fine.		Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Ditto.

[1] Substituted by the A. O. 1937 for "G. of I.".

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 7 years, and fine.	Court of Session.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment for life or imprisonment of either description for 7 years, and fine.	Ditto.
477A	Falsification of accounts.	Ditto ...	Ditto ...	[1][Bailable.] ...	Ditto ...	[1][Imprisonment of either description for 7 years,	[1][Court of Session, Presidency Magis-

						or fine, or both.]	trate or Magistrate of the first class.]
			Of Trade and Property Marks.				
482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto ...	Summons ...	Ditto ...	[1][Not compoundable]	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*contd.*

Of Trade and Property Marks—contd.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Shall not arrest without warrant.	Summons ...	Bailable ...	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	[1][Compoundable with permission of the Court before which the prosecution is pending.]	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle con-	Ditto ...	Ditto ...	Ditto ...	[1][Not compoundable.]	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of

	taining goods with intent to cause it to be believed that it contains goods which it does not contains, etc.						the first or second class.
488	Making use of any such false mark.	Ditto ...	Ditto ...	Ditto ...	Not compoundable	Ditto ...	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year or fine, or both.	Presidency Magistrate or Magistrate of first or second class.
			[2][*Of Currency-Notes and Bank-Notes.*]				
489A	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Court of Session.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.
[2] This portion was inserted by the Currency Notes Forgery Act, 1899 (12 of 1899), s. 3.

SCHEDULE II—*contd.*

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—*concld.*

Of Currency Notes and Bank-Notes—contd.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
489C	Possession of forged or counterfeit currency-notes or bank-notes.	May arrest without warrant.	Warrant ...	Bailable ...	Not compoundable	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
489D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto ...	Ditto ...	Not bailable ...	Ditto ...	Imprisonment for life or imprisonment of either description for 10 years, and fine.	Ditto.
		CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.					
490	Being bound by contract to render	Shall not arrest without warrant.	Summons ...	Bailable ...	Compoundable ...	Imprisonment of either descrip-	Presidency Magistrate, or

	personal service during a voyage or journey or to convey or guard any property or person and voluntarily omitting to do so.							tion for 1 month or fine of 100 rupees, or both.	Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto	...	Ditto	...	Ditto	...	Ditto	...	Imprisonment of either description for 1 month or fine or double the expense incurred, or both.	Ditto.

SCHEDULE II—*contd.*

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto ...	Ditto ...	Bailable ...	[1][Compoundable with permission of the Court before which the prosecution is pending.]	Imprisonment of either description for 7 years and fine.	[1][Court of Session. Presidency Magistrate or Magistrate of the first class.]

495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Ditto ...	[1][Bailable.] ...	[1][Not compoundable.]	Imprisonment of either description for 10 years, and fine.	[1][Court of Session.]
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
497	Adultery ...	Ditto ...	Ditto ...	Bailable ...	Compoundable ...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.

SCHEDULE II—*contd.*

CHAPTER XXI.—DEFAMATION.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
[500	(*a*) Defamation (other than defamation by spoken words) against the President or the Vice-President or the Governor or Rajpramukh of a State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, when instituted upon a complaint made by the Public Prosecutor.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable with the permission of the Court before which the prosecution is pending.	Simple imprisonment for two years or fine or both.	Court of Session.
	(*b*) Defamation in any other case.	Ditto ...	Ditto ...	Ditto ...	Compoundable ...	Ditto ...	Court of Session, Presidency Magistrate or Magistrate of the First Class.

501	(*a*) Printing or engraving matter knowing it to be defamatory against the President or the Vice-President or the Governor or Rajpramukh of a State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, when instituted upon a complaint made by the Public Prosecutor.	Ditto ...	Ditto ...	Ditto ...	Compoundable with the permission of the Court before which the prosecution is pending.	Ditto ...	Court of Session.
	(*b*) Printing or engraving matter knowing it to be defamatory, in any other case.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable ...	Simple imprisonment for two years or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the First Class.
502	(*a*) Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter against the President or the Vice-President or the	Ditto ...	Ditto ...	Ditto ...	Compoundable with the permission of the Court before which the prosecution is pending.	Ditto ...	Court of Session.

[1] Substituted by Act 26 of 1955, s. 114 (*a*), for the original entries.

SCHEDULE II—*contd.*

CHAPTER XXI.—DEFAMATION—*contd.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	Governor or Rajpramukh of a State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, when instituted upon a complaint made by the Public Prosecutor.						
	(*b*) Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter, in any other case.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable ...	Simple imprisonment for two years or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the First Class.]

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Compoundable ...	Imprisonment of either description for 2 years, or fine, or both.	[1][*Any Judicial Magistrate.*]
505	False statement, rumour, etc., circulated within tent to cause mutiny or offence against the public peace.	Ditto ...	Ditto ...	Not bailable ...	Not compoundable.	Ditto ...	Presidency Magistrate or Magistrate of the first class.
506	Criminal intimidation.	Ditto ...	Ditto ...	Bailable ...	Compoundable ...	Ditto ...	[2][Presidency Magistrate or Magistrate of the first or second class.]
	If threat be to cause death or grievous hurt, etc.	Ditto ...	Ditto ...	Ditto ...	Not compoundables.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
507	Criminal intimidation by annoymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	[3][Compoundable] ...	Imprisonment of either description for 1 year or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

[1] Substituted for Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[2] Substituted by the Amending Act, 1903 (I of 1903), Sch. II, Part II, for "Ditto".
[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, fo the original entry.

SCHEDULE II—*concld.*

CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*contd.*

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Indian Penal Code.	8 By what Court triable.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Shall not arrest without warrant.	Warrant ...	Bailable ...	[1][Compoundable when permission is given by the Court before which the prosecution is pending.]	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	[1][Not compoundable.]	Simple imprisonment for 24 hours or fine of 10 rupees, or both.	[2][*Any Judicial Magistrate.*]
			CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.				
511	Attempting to commit offences punishable with imprisonment for life or	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Imprisonment for life or imprisonment not exceeding half of the longest	The Court by which the offence attempted is triable.

imprisonment, and in such attempt doing any act towards the commission of the offence.		warrant shall ordinarily issue.			term, and of any description, provided for the offence, or fine, or both.	

OFFENCES AGAINST OTHER LAWS.

If punishable with death, imprisonment for life or imprisonment for 7 years or upwards.	May arrest without warrant.	Warrant ...	Not bailable ...	Not compoundable.	.....	Court of Session.
If punishable with imprisonment for 3 years and upwards, but less than 7.	Ditto ...	Ditto ...	Ditto ... Except in cases [2][not relating to fire arms] under the Indian Arms Act, 1878, section 19, which shall be bailable.	Ditto ...	.....	Court of Session, Presidency Magistrate or Magistrate of the first class.
If punishable with imprisonment for 1 year and upwards, but less than 3 years.	Shall not arrest without warrant.	Summons ...	Bailable ...	Ditto ...	.....	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
If punishable with imprisonment for less than 1 year, or with fine only.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	.....	[3][*Any Judicial Magistrate.*]

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 159, for the original entry.
[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "Any Magistrate".
[3] Inserted by Act 1 of 1951, s. 24.

SCHEDULE III.

(See section 36.)

ORDINARY POWERS OF [1][STATE] MAGISTRATES.

I.—*Ordinary Powers of a Magistrate of the Third Class.*

(1) Power to arrest, or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.

(2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.

(3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.

(4) Power to issue proclamations in cases judicially before him, section 87.

(5) Power to attach and sell property [2][and to dispose of claims to attached property] in cases judicially before him, section 88.

(6) Power to restore attached property, section 89.

(7) Power to require search to be made for letters and telegrams, section 95.

(8) Power to issue search-warrant, section 96.

(9) Power to endorse a search-warrant and order delivery of thing found, section 99.

(10) Power to command unlawful assembly to disperse, section 127.

(11) Power to use civil force to disperse unlawful assembly, section 128.

(12) Power to require military force to be used to disperse unlawful assembly, section 130.

[3]* * * * * * *

(14) Power to authorise detention [2][not being detention in the custody of the police] of a person during a police-investigation, section 167.

[2][(14*a*) Power to postpone issue of process and inquire into case himself, section 202.]

(15) Power to detain an offender found in Court, section 351.

[4]* * * * * * *

(17) Power to apply to [5][*Sessions Judge*] to issue commission for examination of witness, section 506 (*2*).

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[1] Substituted by the A. O. 1950 for "Provincial".
[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 160.
[3] Item 13 rep. by s. 160, *ibid.*
[4] Item 16 rep. by the Repealing and Amending Act, 1925 (37 of 1925), s. 3 and Sch. II.
[5] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "District Magistrate".

SCHEDULE III—*contd.*

(18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514 [1][and to require fresh security, section 514A].

[1][(18*a*) Power to make order as to custody and disposal of property pending inquiry or trial, section 516A.]

(19) Power to make order as to disposal of property, section 517.

(20) Power to sell [2]*property of a suspected character, section 525.

[1][(21) Power to require affidavit in support of application, section 539A.]

[1][(22) Power to make local inspection, section 539B.]

II.—Ordinary Powers of a Magistrate of the Second Class.

(1) The ordinary powers of a Magistrate of the third class.

(2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.

[3][(3) Power to postpone issue of process and to inquire into a case or direct investigation, section 202.]

[4]* * * * * * *

III.—Ordinary Powers of a Magistrate of the First Class.

(1) The ordinary powers of a Magistrate of the second class.

[5][(1*a*) *Power to direct warrants to landholders, section 78.*]

(2) Power to issue search-warrant otherwise than in course of an inquiry section 98.

(3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.

[6]* * * * * * *

[7][(7*a*) Power to record statements and confessions during a police investigation, section 164.]

[7][(7*aa*) Power to authorise detention of a person in the custody of the police during a police investigation, section 167.]

[6]* * * * * * *

(8) Power to commit for trial, section 206.

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 160.
[2] The word "perishable" rep. *ibid.*, s. 160.
[3] Substituted by s. 160, *ibid.* for original item.
[4] Item (4) rep. by s. 160, *ibid.*
[5] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.
[6] Items (4), (5), (6), (6*a*), (7) and (7*b*) were deleted, *ibid.* They are as under :—
" (4) Power to require security to keep the peace, section 107.
(5) Power to require security for good behaviour, section 109.
(6) Power to discharge sureties, section 126A.
(6*a*) Power to make orders as to local nuisances, section 133.
(7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.
(7*b*) Power to hold inquests, section 174."
[7] Inserted by Act 18 of 1923, s. 160.

SCHEDULE III—*contd.*

(9) Power to stop proceedings when no complainant, section 249.

[1](9*a*) Power to tender pardon to accomplice during inquiry into case by himself, section 337.]

(10) Power to make orders of maintenance, sections 488 and 489.

(11) Power to take evidence on commission, section 503.

(12) Power to recover penalty on forfeited bond, section 514.

[1](12*a*) Power to require fresh security, section 514A.]

[1][(12*b*) Power to re-call case made over by him to another Magistrate, section 528 (*d*).]

(13) Power to make order as to first offenders, section 562.

[1][(14) Power to order released convicts to notify residence, section 565.]

[2]*[III-A.—Ordinary Powers of a Taluka Magistrate.*

(1) *Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence, section 64.*

(2) *Power to arrest, or direct the arrest, in his presence of an offender, section 65.*

(3) *Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 85.*

(4) *Power to require search to be made for letters and telegrams, section 95.*

(5) *Power to issue search warrant, section 96.*

(6) *Power to endorse a search warrant and order delivery of things found, section 99.*

(7) *Power to command unlawful assembly to disperse, section 127.*

(8) *Power to use civil force to disperse unlawful assembly, section 128.*

(9) *Power to require military force to be used to disperse unlawful assembly, section 130.*

(10) *Power to apply to District Magistrate to issue commission for examination of witness, section 506.*

(11) *Power to recover penalty on forfeited bond, section 514 and to require fresh security, section 514-A.*

(12) *Power to make order as to disposal of property, section 517.*

(13) *Power to sell property of a suspected character, section 525.*

[1] Inserted by Act 18 of 1923, s. 160.
[2] Part III-A was inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

SCHEDULE III—*contd.*

IV.—Ordinary Powers of a Sub-divisional Magistrate [1][*appointed under section 13*].

[2][(1) *The ordinary Powers of a Taluka Magistrate.*]

(2) Power to direct warrants to landholders, section 78.

[3][(2a) *Power to issue search-warrant otherwise than in course of an inquiry, section 98*].

(2b) *Power to issue search-warrant for discovery of persons wrongfully confined, section 100.*

(2c) *Power to require security to keep the peace, section 107.*

[4][(2cc) *Power to require security for good behaviour, section 108.*]

(2d) *Power to require security for good behaviour, section 109.*]

(3) Power to require security for good behaviour, section 110.

[3][(4) *Power to discharge sureties, section 126A.*

(4a) *Power to make orders as to local nuisances, section 133.*]

(5) Power to make orders prohibiting repetitions of nuisances, section 143.

(6) Power to make orders under section 144.]

[3][(6a) *Power to make orders, etc., in possession cases, sections 145, 146 and 147.*]

(7) Power to depute Subordinate Magistrate to make local inquiry, section 148.

(8) Power to order police investigation into cognizable case, section 156.

[3][(8a) *Power to record statements and confessions during a police investigation, section 164.*]

[5]* * * * * *

[3][(10) *Power to hold inquests, section 174.*]

(11) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.

[6]* * * * * *

(17) Power to forward record of inferior Court to District Magistrate, section 435 (2).

(18) Power to sell property alleged or suspected to have been stolen, etc., section 524.

[6]* * * * * *

[7]* * * * * *

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[1] Inserted by Act 18 of 1923, s. 160.

[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for the original item (1) which reads as under:—

"(1) The ordinary powers of a Magistrate of the first class."

[3] Inserted, *ibid.*

[4] Inserted by Bom. 34 of 1953, s. 10 (*1*).

[5] Item (9) was deleted, *ibid.* It is as under:—

"(9) Power to receive report of police-officer and pass order, section 173."

[6] Items (12) to (16) and item (19) were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I. They are as under:—

"(12) Power to entertain complaints, section 190.

(13) Power to receive police-reports, section 190.

(14) Power to entertain cases without complaint, section 190.

(15) Power to transfer cases to a subordinate Magistrate, section 192.

(16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.

(19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.

[7] Item 20 (rep.) by Act 18 of 1923, s. 160.

SCHEDULE III—*concld.*

V.—Ordinary Powers of a District Magistrate.

(1) The ordinary powers of a Sub-divisional Magistrate.

[1]* * * * *

(2) Power to require delivery of letters, telegrams, etc., section 95.

(3) Power to issue search-warrants for documents in custody of postal or telegraph authority, section 96.

(4) Power to require security for good behaviour [2]* * * , section 108.

(5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.

(6) Power to cancel bond for keeping the peace, section 125.

[3][(6*a*) Power to order preliminary investigation by police-officer not below the rank of Inspector in certain cases, section 196B.]

[1]* * * * * *

[3][(7*a*) Power to tender pardon to accomplice at any stage of a case, section 337.]

[1]* * * * * *

(9) Power to hear appeals from orders requiring security for [3][keeping the peace or] good behaviour, section 406.

[3][(9*a*) Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties, section 406A.]

[1]* * * * * * *

(11) Power to call for records, section 435.

[1]* * * * * * *

[4]* * * * * * *

(17) Power to appoint person to be Public Prosecutor in particular case section 492 (*2*).

(18) Power to issue commission for examination of witness, sections 503, 506.

(19) Power to hear appeals from or revise orders passed under sections 514, 515.

(20) Power to compel restoration of abducted female, section 552.

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[1] Items (1*a*), (7), (8), (10), (12), (13) and (14) were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I. They are as under :—

"(1*a*) Power to try juvenile offenders, section 29B.

(7) Power to try summarily, section 260.

(8) Power to quash convictions, in certain cases, section 350.

(10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.

(12) Power to order inquiry into complaint dismissed or case of accused discharged, section 436.

(13) Power to order commitment, section 437.

(14) Power to report case to High Court, section 438."

[2] The words "in case of sedition" were deleted by Bom. 34 of 1953, s. 10(*2*).

[3] Inserted by the Code of Criminal Procedure Amendment Act, 1923 (18 of 1923), s. 160.

[4] Items (15) and (16) rep. by s. 3 and Sch. II of the Repealing and Amending Act, 1925 (37 of 1925).

[1][SCHEDULE IV.*

(See section 37.)

Additional Powers with which Magistrates may be invested.

PART I.—[2][(A)] BY STATE GOVERNMENT.

Powers with which a Magistrate of the First Class may be invested.

1. *Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 185;*

2. *Power to take cognizance of offences upon complaint, section 190;*

3. *Power to take cognizance of offences upon police reports, section 190;*

4. *Power to take cognizance of offences without complaint, section 190;*

5. [3]* *

6. *Power to try summarily, section 260;*

7. *Power to pass sentence on proceedings recorded by a Magistrate of the Second and Third Class, section 349;*

8. *Power to hear appeals from conviction by Magistrate of the Second and Third Class, section 407;*

9. *Power to try cases under section 124-A of the Indian Penal Code.*

Powers with which a Magistrate of the Second Class may be invested.

1. *Power to record statements and confessions during a police investigation, section 164;*

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[1] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for the original Schedule IV.

[2] Inserted by Bom. 34 of 1953, s. 11(*1*).

[3] Entry 5 deleted by Bom. 71 of 1954, s. 7(*i*).

*The original Schedule IV is as under:—

"SCHEDULE IV.

(See sections 37 and 38).

Additional Powers with which State Magistrates may be invested.

Powers with which a Magistrate of the First Class may be invested—

BY THE STATE GOVERNMENT.

(1) Power to require security for good behaviour in case of sedition, section 108.
(2) Power to require security for good behaviour, section 110.
(3) Omitted.
(4) Power to make orders prohibiting repetitions of nuisances, section 143.
(5) Power to make orders under section 144.
(6) Omitted.
(7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
(8) Power to take cognizance of offences upon complaint, section 190.
(9) Power to take cognizance of offences, upon police reports, section 190.
(10) Power to take cognizance of offences without complaint, section 190.
(11) Power to try summarily, section 260.
(12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407.
(13) Power to sell property alleged or suspected to have been stolen, etc., section 524.
(14) Omitted.
(15) Power to try cases under section 124-A of the Indian Penal Code.

BY THE DISTRICT MAGISTRATE.

(1) Power to make orders prohibiting repetitions of nuisances, section 143.
(2) Power to make orders under section 144.
(3) Omitted.
(4) Power to take cognizance of offences upon complaint, section 190.
(5) Power to take cognizance of offences upon police reports, section 190.
(6) Power to transfer cases, section 192.

SCHEDULE IV—*contd.*

2. *Power to authorise detention of a person in the custody of the police during a police investigation, section 167 ;*

3. *Power to take cognizance of offences upon complaint, section 190 ;*

4. *Power to take cognizance of offences upon police reports, section 190 ;*

5. *Power to take cognizance of offences without complaint, section 190 ;*

6. *Power to commit for trial, section 206 ;*

7. *Power to stop proceedings instituted otherwise than upon complaint, section 249 ;*

8. *Power to make order as to first offenders, section 562 ;*

Powers with which a Magistrate of the Third Class may be invested.

1. *Power to record statement and confessions during a police investigation, section 164 ;*

2. *Power to take cognizance of offences upon complaint, section 190 ;*

3 *Power to take cognizance of offences upon police report, section 190 ;*

4. *Power to stop proceedings instituted otherwise than upon complaint, section 249.*

[1][(B) By a Sessions Judge.

Powers with which any Judicial Magistrate may be invested.

1. *Power to take cognizance of offences upon complaint, section 190 ;*

2. *Power to take cognizance of offences upon police reports, section 190.*]

[2][3. *Power to transfer cases, section 192.*]

Powers with which a Magistrate of the Second Class may be invested—

By the State Government.

(1) Omitted.
(2) Power to make orders prohibiting repetitions of nuisances, section 143.
(3) Power to make orders under section 144.
(3a) Power to record statements and confessions during a police investigation, section 164.
(3b) Power to authorize detention of a person in the custody of the police during a police investigation, section 167.
(4) Power to hold inquests, section 174.
(5) Power to take cognizance of offences upon complaint, section 190.
(6) Power to take cognizance of offences upon police reports, section 190.
(7) Power to take cognizance of offences without complaint, section 190.
(8) Power to commit for trial, section 206.
(9) Power to make orders as to first offenders, section 562.

By the District Magistrate.

(1) Power to make orders prohibiting repetitions of nuisances, section 143.
(2) Power to make orders under section 144.
(3) Power to hold inquests, section 174.
(4) Power to take cognizance of offences upon complaint, section 190.
(5) Power to take cognizance of offences upon police reports, section 190.

Powers with which a Magistrate of the Third Class may be invested—

By the State Government.

(1) Power to make orders prohibiting repetitions of nuisances, section 143.
(2) Omitted.
(3) Power to hold inquests, section 174.
(4) Power to take cognizance of offences upon complaint, section 190.
(5) Power to take cognizance of offences upon police reports, section 190.
(6) Omitted.

By the District Magistrate.

(1) Power to make orders prohibiting repetitions of nuisances, section 143.
(2) Omitted.
(3) Power to hold inquests, section 174.
(4) Power to take cognizance of offences upon complaint, section 190.
(5) Power to take cognizance of offences upon police reports, section 190.

Powers with which a Sub-divisional Magistrate may be invested—

By the State Government.

Power to call for records, section 435."

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[1] Added by Bom. 34 of 1953, s. 11 (*1*).

[2] Inserted by Bom. Act 71 of 1954, s. 7 (*ii*).

SCHEDULE IV—*concld.*

PART II.—BY STATE GOVERNMENT.

Powers with which a Sub-divisional Magistrate may be invested.

1. *Power to call for records, section 435.*

Powers with which any other Executive Magistrate may be invested.

1. *Power to make orders prohibiting repetitions of nuisances, section 143;*
2. *Power to make orders under section 144;*
3. *Power to make orders, etc., in possession cases, sections 145 and 147;*
4. *Power to record statements and confessions during a police investigation, section 164;*
5. *Power to hold inquest, section 174;*
6. *Power to sell property alleged or suspended to have been stolen, etc., section 524;*

[1][*Powers with which a Taluka Magistrate may be invested.*

Power to require security to keep the peace, section 107.]

BY DISTRICT MAGISTRATE.

Powers with which any Executive Magistrate may be invested.

1. *Power to make orders prohibiting repetitions of nuisances, section 143;*
2. *Power to make orders under section 144;*
3. *Power to hold inquests, section 174.*]

SCHEDULE V.

(*See section* [2][*555*].)

FORMS.

I.—SUMMONS TO AN ACCUSED PERSON.

(*See section 68.*)

To of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (*Magistrate*)

of , on the day

of . Herein fail not.

Dated this day of , 19 .

(*Seal.*) (*Signature.*)

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[1] Inserted by Bom. 34 of 1953, s. 11 (2).

[2] Substituted by the Amending Act, 1903 (I of 1903), Sch. II, Pt. II, for "554".

SCHEDULE V—*contd.*

II.—WARRANT OF ARREST.

(*See section 75.*)

To (*name and designation of the person or persons who is or are to execute the warrant*).

WHEREAS of stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said , and to produce him before me. Herein fail not.

Dated this day of 19

(*Seal*) (*Signature*)

(*See section 76.*)

This warrant may be endorsed as follows :—

If the said shall give bail himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of) to attend before me on the day of and to continue so to attend until otherwise directed by me, he may be released.

Dated this day of , 19 .

(*Signature*)

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(*See section 86.*)

I, (*name*) of , being brought before the District Magistrate of (*or as the case may be*) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit, to [1][Government] [2]* * * the sum of rupees

Dated this day of 19

(*Signature*)

I do hereby declare myself surety for the abovenamed of , that he shall attend before in the Court of on the day of next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit to [1][Government] [2]* * * the sum of rupees

Dated this day of 19

(*Signature*)

---

[1] Substituted by the A. O. 1950 for "Her Majesty the Queen".
[2] The words "Empress of India" rep. by the A. O. 1948.

SCHEDULE V—*contd.*

IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(*See section 87.*]

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said of is required to appear at (*place*) before this Court *or* before me to answer the said complaint [1][on the day of].

Dated this day of , 19 .

(*Seal*) (*Signature*)

V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(*See section 87.*)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing) himself to avoid the service of the said warrant):

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of on the day of next at o'clock to be examined touching the offence complained of.

Dated this day of , 19 .

(*Seal*) (*Signature*)

VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(*See section 88.*)

To the Police-officer in charge of the Police-station at

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court

[1] Substituted by the Amending Act, 1903 (I of 1903), Sch. II, Part II, for "within days from this date".

SCHEDULE V—*contd.*

and it has been returned to the said warrant that it cannot be served ; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself to avoid the service of the said warrant) : and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear and give evidence at the time and place mentioned therein, [2]* * *

This is to authorize and require you to attach by seizure the moveable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 19 .

(*Seal*) (*Signature*)

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(*See section 88*)

To (*name and designation of the person or persons who is or are to execute the warrant.*

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code; and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found ; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant), and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear to answer the said charge within days ; and whereas the said is possessed of the following property other than land paying revenue to Government in the village (*or* town) of , in the District of , *viz.*, and an order has been made for the attachment thereof ;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this day of , 19 .

(*Seal*) (*Signature*)

---

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Proclamation was duly issued".

[2] The words "and he has failed to appear" rep. by s. 162, *ibid.*

SCHEDULE V—*contd.*

ORDER AUTHORIZING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(*See section 88.*)

To the Deputy Commissioner of the District of

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or* is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant) and thereupon a [1][Proclamation has been or is being duly issued] and published requiring the said to appear to answer the said charge within days, [2]* * *; and whereas the said is possessed of certain land paying revenue to Government in the village (*or town*) of in the District of

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this day of , 19 .

(*Seal*) (*Signature*)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(*See section 90*).

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (*name*), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*)

---

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Proclamation was duly issued".

[2] The words "but he has not appeared" rep. by s. 162, *ibid.*

SCHEDULE V—*contd.*

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(*See section 96.*)

To (*name and designation of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence);

This is to authorize and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*) and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(*See section 98.*)

To (*name and designation of a Police-officer above the rank of a Constable*).

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or if either of the other purposes expressed in the section, state the purpose in the words of the section*);

This is to authorize and require you to enter the said house (*or other place*) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place*) *or if the search is to be confined to a part specify the part clearly*) and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, [1][*or* obscene objects], *as the case may be*)—[Add (*when the case requires it*) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)], and forthwith to bring before this Court such of the said things as may be taken possession of returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*)

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[1] Inserted by the Obscene Publications Act, 1925 (8 of 1925), s. 3.

SCHEDULE V—*contd.*

X.—BOND TO KEEP THE PEACE.

(*See section 107*).

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of [1][or until the completion of the inquiry in the matter of now pending in the Court of ,] I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term [1][or until the completion of the said inquiry] and, in case of my making default therein, I hereby bind myself to forfeit to [2][Government] [3]* * the sum of rupees

Dated this day of , 19 .

(*Signature*)

XI.—BOND FOR GOOD BEHAVIOUR.

(*See sections 108, 109 and 110*).

WHEREAS I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to [4][Government and all the citizens of India] for the term of (*state the period*) [5] or until the completion of the inquiry in the matter of now pending in the Court of ,] I hereby bind myself to be of good behaviour to [4][Government and all the citizens of India] during the said term [5][or until the completion of the said inquiry]; and, in case of my making default therein, I bind myself to forfeit to [6][Government] the sum of rupees.

Dated this day of 19 .

(*Signature*).

(*Where a bond with sureties is to be executed, add*)—We do hereby declare ourselves sureties for the abovenamed that he will be of good behaviour to [4][Government and all the citizens of India] during the said term [5][or until the completion of the said inquiry]; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to [6][Government] the sum of rupees

Dated this day of , 19 .

(*Signature*)

---

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162.
[2] Substituted by the A. O. 1950 for " Her Majesty the Queen ".
[3] The words " Empress of India " rep. by the A.O. 1948.
[4] Substituted by the A.O. 1950 for " Her Majesty the Queen and to all Her subjects ".
[5] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162.
[6] Substituted by the A. O. 1950 for " Her Majesty ".

SCHEDULE V—*contd.*

XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(*See section 114*).

To of

WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (*or* by a duly authorized agent) at the Office of the Magistrate of on the day of 19 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [*when sureties are required, add,* and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees (each *if more than one*)] that you will keep the peace for the term of .

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*)

XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name and address*) appeared before me in person (*or* by his authorized agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (*or* a bond with two sureties each in rupees), that he, the said (*name*), would keep the peace for the period of months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime [1][be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 19 .

(*Seal*) (*Signature*)

[1] Substituted by the Amending Act, 1903 (I of 1903), Sch. II, Part II, for "comply with the said order by himself and his surety (or sureties), entering into the said bond, in which case the same shall be received and the said (*name*) released".

SCHEDULE V—*contd.*

XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(*See section 123.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS it has been made to appear to me that (*name and description*) has been and is lurking within the district of having no ostensible means of subsistence (*or*, and that he is unable to give any satifactory account of himself);

or

WHEREAS evidence of the general character of (*name and description*) has been adduced before me and recorded from which it appears that he is an habitual robber (*or* house-breaker, etc., *as the case may be*);

And whereas an order has been recorded stating the same and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees , and the said surety (*or* each of the said sureties) for rupees , and the said (*name*) has failed to comply with the said order and for such default has been adjudged imprisonment for (*state the term*) unless the said security be sooner furnished;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*) unless he shall in the meantime [1][be lawfully ordered to be released] and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XV.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See sections 123 and 124*).

To the Superintendent (*or* Keeper) of the Jail at *or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of the Court, dated the day of and has since duly given security under section of the Code of Criminal Procedure:

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody unless he is liable to be detained for some other cause.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

[1] Substituted by the Amending Act, 1903 (I of 1903), Sch. II, Part II, for "comply with the said order by himself and his surety (or sureties), entering into the said bond, in which case the same shall be received and the said (*name*) released".

SCHEDULE V—*contd.*

XVI.—ORDER FOR THE REMOVAL OF NUISANCES.

(*See section 133*).

To (*name, description and address*).

WHEREAS it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which etc. (*describe the road or public place*), by etc. (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on as owner or manager, the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*) and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner (*or* are in possession of *or* have the control over) a certain tank (*or* well *or* excavation) adjacent to the public way (*describe the thoroughfare*), and that the safety of the public is endangered by reason of the said tank (*or* well or excavation) being without a fence (*or* insecurely fenced);

or

WHEREAS, etc., etc. (*as the case may be*);

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*); or to appear, etc.;

or

I do hereby direct and require you, etc., etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of 19

(*Seal*) (*Signature*)

SCHEDULE V—*contd.*

XVII.—MAGISTRATE'S ORDER CONSTITUTING A JURY.

(*See section 138.*)

WHEREAS on the day of 19 , an order was issued, to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me, by a petition bearing date the day of for an order appointing a Jury to try whether the said recited order is reasonable and proper; I do hereby appoint (*the names, etc., of the five or more Jurors*) to be the Jury to try and decide the said question, and do require the said Jury to report their decision within days from the date of this order at my office at .

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XVIII.—MAGISTRATE'S NOTICE AND PEREMPTORY ORDER AFTER THE FINDING BY A JURY.

(*See section 140.*)

To (*name, description and address*).

I HEREBY give you notice that the Jury duly appointed on the petition presented by you on the day of have found that the order issued on the day of requiring you (*state substantially the requisition in the order*) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY JURY.

(*See section 142.*)

To (*name, description and address*).

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the day of 19 , is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure, direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the Jury.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

SCHEDULE V—*contd.*

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(*See section 143.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that, etc. (*state the proper recital, guided* by Form No. XVI or Form No. XXI, *as the case may be*);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, etc. (*as the case may be*).

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXI.—MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(*See section 144.*)

To (*name, description and address*).

WHEREAS it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

or

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, etc., (*as the case may be*), and that such procession is likely to lead to a riot or an affray;

or

WHEREAS, etc., etc. (*as the case may be*);

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road:

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case recited may require*).

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

SCHEDULE V—*contd.*

XXII.—MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETURN POSSESSION OF LAND, ETC., IN DISPUTE.

(*See section 145.*)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claim as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true;

I do decide and declare that he is (*or they are*) in possession of the said (*the subject of dispute*) and entitled to retain such possession until ousted by due course of law, and so strictly forbid any disturbance of his (*or their*) possession in the meantime.

Given under my hand and the seal of the Court, this day of 19

(*Seal*) (*Signature*)

XXIII.—WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF LAND, ETC.

(*See section 146.*)

To the police-officer in charge of the Police-station at [*or*, To the Collector of].

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (*describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (*the subject of dispute*) [or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid];

SCHEDULE V—*contd.*

This is to authorize and require you to attach the said (*the subject of dispute*) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXIV.—MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR WATER.

(*See section 147.*)

A DISPUTE having arisen concerning the right of use of (*state concisely the subject of dispute*) situate within the limits of my jurisdiction, the possession of which land (*or* water) is claimed exclusively by (*describe the person or persons*), and it appearing to me, on due inquiry into the same, that the said land (*or* water) has been open to the enjoyment of such use by the public (*or if by an individual or a class of persons, describe him or them*) and (*if the use can be enjoyed throughout the year*) that the said use has been enjoyed within three months of the institution of the said inquiry (*or if the use is enjoyable only at particular seasons, say* "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (*the claimant or claimants of possession*), or any one in their interest, shall not take (*or* retain) possession of the said land (*or* water) to the exclusion of the enjoyment of the right of use aforesaid, until he (*or* they) shall obtain the decree or order of a competent Court adjudging him (*or* them) to be entitled to exclusive possession.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(*See section 169.*)

I, (*name*), of , being charged with the offence of and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear where required, do hereby bind myself to appear at , in the Court of , on the day of next (*or* on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case my making default herein, I bind myself to forfeit to [1][Government] [2]* * * the sum of rupees

Dated this day of , 19 .

(*Signature*)

[1] Substituted by the A.O., 1950, for "Her Majesty the Queen".
[2] The words "Empress of India" rep. by the A.O., 1948.

SCHEDULE V—*contd.*

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the abovesaid that he shall attend at , in the Court of , on the day of next (*or* on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (*or* we hereby bind ourselves) to forfeit to [1][Government] [2]* * * the sum of rupees.

Dated this day of , 19 .

(*Signature*)

XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(*See section 170.*)

I, (*name*), of (*place*), do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (*or* to prosecute and give evidence) (*or* to give evidence) in the matter of a charge of against one *A. B.*, and, in case of making default herein, I bind myself to forfeit to [1][Government] [2]* * * the sum of rupees

Dated this day of , 19 .

(*Signature*)

XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(*See section 218.*)

THE Magistrate of hereby gives notice that he has committed one for trial at the next Sessions; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, etc. (*state the offence as in the charge*).

Dated this day of , 19 .

(*Signature*)

XXVIII.—CHARGES.

(*See sections 221, 222, 223.*)

(I) CHARGES WITH ONE HEAD.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows:—

On Penal Code, section 121.

(*b*) that you, on or about the day of , at , waged war against [1][the Government of India] [2]* * * and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [3]* * * * *

(*c*) And I hereby direct that you be tried by the Court on the said charge.

[*Signature and seal of the Magistrate.*]

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[1] Substituted by the A.O., 1950, for "Her Majesty the Queen".

[2] The word "Empress of India" rep. by the A.O., 1948.

[3] The brackets and words "[when the charge is framed by a Presidency Magistrate, for Court of Session, substitute High Court]" were deleted by Bom. 30 of 1948, s. 28.

SCHEDULE V—*contd.*

[*To be substituted for* (*b*)]:—

(2) That you, on or about the day of , at , with the intention of inducing the Hon'ble *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 124.

(3) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*] a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 161.

(4) That you, on or about the day of , at , did [*or* omitted to do, *as the case may be*] such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 166.

(5) That you, on or about the day of , at, in the course of the trial of before stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 193.

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 304.

(7) That you, on or about the day of , at abetted the commission of suicide by *A. B.*, a person in a state of intoxication and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 306.

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 325.

(9) That you, on or about the day of , at robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance if the Court of Session [*or* High Court]. On section 392.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. On section 395.

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the congnizance of the Court of Session, ", *and in* (*c*) *omit* " by the said Court."]

SCHEDULE V—*contd.*

(II) CHARGES WITH TWO OR MORE HEADS.

(*a*) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows :—

On section 241.

(*b*) *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and ther by committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*)] :—

On sections 302 and 304.

(2) *First.*—That you on or about the day of , at , committed murder by causing the death of and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Secondly.—That you on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

On sections 379 and 382.

(3) *First.*—That you on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Secondly.—That you, on or about the day of , at , committed theft, having made preparation of causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Thirdly.—That you, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

Fourthly.—That you, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court].

SCHEDULE V—*contd.*

(4) That you, on or about the day of , at , in the course of the inquiry into , before , stated in evidence that " ", and that you, on or about the day of , at , in the course of the trial of , before , stated in the evidence that " ", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* High Court]. Alternative charge on section 193.

[*In cases tried by Magistrates substitute* " within my cognizance " *for* " within the cognizance of the Court of Session " *and in* (*c*) *omit* " by the said Court ".]

(III) CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I, (*name and office of Magistrate, etc.*), hereby charge you (*name of accused person*) as follows :—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [*or* $\frac{\text{High Court}}{\text{Magistrate}}$, *as the case may be*].

And you, the said (*name of accused*), stand further charged that you, before the committing of the said offence, that is to say, on the day of , had been convicted by the (*state Court by which conviction was had*) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

XXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED BY A MAGISTRATE.

(*See sections 245 and 258.*)

To the Superintendent (*or* Keeper) of the Jail at .

WHEREAS on the day of 19 , (*name of prisoner*) the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar for 19 , was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (*or sections*) of the Indian Penal Code (*or* of Act), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said, (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

SCHEDULE V—*contd.*

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY [1][ATTACHMENT AND SALE].

(*See section 250.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*) and the same has been dismissed as [2][false and] frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees as amends; and whereas the said sum has not been paid [3]* * * and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXXI.—SUMMONS TO WITNESS.

(*See sections 69 and 252.*)

To of

WHEREAS complaint has been made before me that of has (*or* is suspected to have) committed the offence of (*state the offence concisely with time and place*), and it appears to me that you are likely to give material evidence for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Distress".

[2] Inserted by s. 162, *ibid.*

[3] The words "and cannot be recovered by distress of the moveable property of the said (*name of complainant*)" rep. by s. 162, *ibid.*

SCHEDULE V—*contd.*

Forms XXXII and XXXIII have been deleted by Bom. 21 of 1954, s. 3 and Second Schedule.

XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS. [1]**

(*See section 326.*)

To the District Magistrate of

WHEREAS a Criminal Session is appointed to be held in the Court-house at on the day of next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of Jurors [1]** furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 a.m. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(*Here enter the names of Jurors* [1]**)

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXXIII.—SUMMONS TO [2]** JUROR.

(*See section 328*).

To (*name*) of (*place*).

PURSUANT to a precept directed to me by the Court of Session of requiring your attendance as [3]** a Juror at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (*place*) at ten o'clock in the forenoon on the day of next.

Given under may hand and the seal of office, this day of 19 .

(*Seal*) (*Signature*)

XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(*See section 374.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at the Session held before me on the day of 19 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] The words " and Assessor " were deleted by Act 26 of 1955, s. 115(*a*).
[2] The words " Assessor or " were deleted, *ibid*, s. 115(*b*).
[3] The words " an Assessor or " were deleted, *ibid*, s. 115 (*b*).

SCHEDULE V—*contd.*

XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(*See section 381.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of 19 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the Court of confirming the said sentence has been received by this Court;

This is to authorize and require you, the said Superintendent (*or* Keeper), to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(*See sections 381 and 382.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at a Session held on the day of (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of [1][imprisonment for life] (*or as the case may be*);

This is to authorize and require you, the said Superintendent (*or* Keeper), safely to keep the said (*prisoner's name*) in your custody in the said Jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of [2][imprisonment for life] under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words, "custody in the said Jail", "and there to carry into execution the punishment of imprisonment under the said order according to law".

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by Act 26 of 1955, s. 115 (*c*) (*i*), for "transportation for life".

[2] Substituted, *ibid*, s. 115 (*c*) (*ii*), for "transportation".

SCHEDULE V—*contd.*

XXXVII.—WARRANT TO LEVY A FINE BY [1][ATTACHMENT] AND SALE.

(*See section 386* [2][(*1*) (*a*)].)

To (*name and description of the Police-officer or other person or persons who is or are to execute the warrant*).

WHEREAS (*name and description of the offender*) was on the day of 19 , convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ; and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorize and require you to [3][attach any] moveable property belonging to the said (*name*) which may be found within the district of ; and, if within (*state the number of days or hours allowed*) next after [4][such attachment] the said sum shall not be paid (*or* forthwith), to sell the moveable [5][property attached], or so much thereof as shall, be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[6][XXXVIIA.—BOND FOR APPEARANCE OF OFFENDER RELEASED PENDING REALISATION OF FINE.

(*See section 388.*)

WHEREAS I, (*name*), inhabitant of (*place*), have been sentenced to pay a fine of rupees and in default of payment thereof to undergo imprisonment for ; and whereas the Court has been pleased to order my release [7]* * * on condition of my executing a bond for my appearance [8][on the following date (*or* dates) namely:—];

I hereby bind myself to appear before the Court of at o'clock [8][on the following date (*or* dates) namely:—] and in case of making default herein, I bind myself to forfeit to [9][Government] [10]* * * the sum of rupees

Dated this day of 19 .

(*Signature*)

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "Distress".

[2] Inserted by s. 162, *ibid.*

[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "make distress by seizure of any".

[4] Substituted by s. 162, *ibid.*, for "such distress".

[5] Substituted by s. 162, *ibid.*, for "property distrained".

[6] Form XXXVIIA ins. by s. 162, *ibid.*

[7] The words "until the day of " rep. by the Code of Criminal Procedure (Second Amendment) Act, 1923 (37 of 1923), s. 5.

[8] Substituted by s. 5, *ibid.*, for "on that day", "on the said day of next," and "on the day of next."

[9] Substituted by the A. O. 1950 for "His Majesty the King".

[10] The words "Emperor of India" rep. by the A. O. 1948.

SCHEDULE V—*contd.*

Where a bond with sureties is to be executed, add—

We do hereby declare ourselves sureties for the above-named that he will appear before the Court of [1][on the following date (*or* dates) namely :—] and, in case of his making default therein, we bind ourselves jointly and severally to forfeit to [2][Government] [3]* * * the sum of rupees

(*Signature*)

XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(*See section 480.*)

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS at a Court holden before me on this day (*name and description of the offender*) in the presence (*or* view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of offender*) has been adjudged by the Court to pay a fine of rupees , or in default to suffer simple imprisonment for the space of (*state the number of months or days*);

This is to authorize and require you, the Superintendent (*or* Keeper) of the said Jail, to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(*See section 485.*)

To (*name and description of officer of Court*).

WHEREAS (*name and description*), being summoned (*or* brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*);

This is to authorize and require you to take the said (*name*) into custody, and him safely to keep in your custody for the space of days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by Act 37 of 1923, s. 5, for " on that day ", " on the said day of next " and " on the day of next ".

[2] Substituted by the A.O., 1950, for " His Majesty the King ".

[3] The words " Emperor of India " rep. by the A.O. 1948.

SCHEDULE V—*contd.*

XL.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(*See section 488*).

To the Superintendent (*or* Keeper) of the Jail at

WHEREAS (*name, description and address*) has been proved before me to be possessed of sufficient means to maintain his wife (*name*) [or his child (*name*,) who is by reason of (*state the reason*) unable to maintain herself (*or* himself)] and to have neglected (*or* refused) to do so, and an order has been duly made requiring the said (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees : and whereas it has been further proved that the said, (*name*) in wilful disregard of the said order has failed to pay rupees being the amount of the allowance for the month (*or* months) of And thereupon an order was made adjudging him to undergo simple (*or* rigorous imprisonment in the said Jail for the period of

This is to authorize and require you, the said Superintendent (*or* Keeper), to receive the said (*name*) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY [1][ATTACHMENT] AND SALE.

(*See section 488.*)

To (*name and designation of the Police-officer or other person to execute the warrant*).

Whereas an order has been duly made requiring (*name*) to allow to his said wife (*or* child) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (*or* months) of ;

This is to authorize and require you to [2][attach any] moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after [3][such attachment] the said sum shall not be paid (*or forthwith*), to sell the moveable [4][property attached], or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 162, for "distress".

[2] Substituted by s. 162, *ibid.*, for "make distress by seizure of any".

[3] Substituted by s. 162, *ibid.*, for "such distress".

[4] Substituted by s. 162, *ibid.*, for "property distrained".

SCHEDULE V—*contd.*

XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(*See sections 496 and 499*).

I, (*name*) of (*place*), being brought before the Magistrate of (*as the case may be*) charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge, and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit [1][Government] [2]* * * * the sum of rupees

Dated this day of 19

(*Signature*)

I hereby declare myself (*or* We jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*) that he shall attend at the Court of on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him and, in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to [1][Government] [2]* * * the sum of rupees

Dated this day of 19

(*Signature*)

XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(*See section 500.*)

To the Superintendent (*or* Keeper) of the Jail at

(*or other officer in whose custody the person is*).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the day of and has since with his surety (*or* sureties) duly executed a bond under section 499 of the Code of Criminal Procedure;

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by the A. O. 1950 for "Her Majesty the Queen".
[2] The words "Empress of India" rep. by A. O. 1948.

SCHEDULE V—*contd.*

XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section 514.*)

To the Police-officer in charge of the Police-station at

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to [1][Government] [2] * * * the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorize and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much of it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XLV.—NOTICE TO SURETY OF BREACH OF A BOND.

(*See section 514.*)

To of

WHEREAS on the day of 19 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of and bound yourself in default thereof to forfeit the sum of rupees to [1][Government] [2]* * * and whereas the said (*name*) has failed to appear before this Court and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514*).

To of

WHEREAS on the day of 19 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to [1][Government] [2]* * *; and

[1] Substituted by the A.O. 1950 for "Her Majesty the Queen".
[2] The words "Empress of India" rep. by the A. O. 1948.

SCHEDULE V—*contd.*

whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(*See section 514*).

To of

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to [1][Government] [2]* * * the sum of rupees (*the penalty in the bond*);

This is to authorize and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to [1][Government] [2]* * *; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the Civil Jail for (*specify the period*);

This is to authorize and require you, the said Superintendent (*or* Keeper) to receive the said (*name*) into your custody with this warrant and him safely to keep in the said Jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by the A.O. 1950 for "Her Majesty the Queen".
[2] The words "Empress of India" rep. by the A. O. 1948.

SCHEDULE V—*contd.*

XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name, description and address*).

WHEREAS on the day 19 , you entered into a bond not to commit, etc. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded;

You are hereby called upon to pay the said penalty of rupees , or to show cause before me within days why payment of the same should not be enforced against you.

Dated this day of 19 .

(*Seal*) (*Signature*)

L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To (*name and designation of Police-officer*), at the Police-station of

WHEREAS (*name and description*) did, on the day of 19 , enter into a bond for the sum of rupees binding himself not to commit a breach of the peace, etc. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded; and whereas notice has been given to the said (*name*) calling upon to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to [1][Government] [2]* * * the sum of rupees ; and whereas the said (*name*) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*);

This is to authorize and require you, the said Superintendent (*or* Keeper) of the said Civil Jail, to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of*

[1]Substituted by the A.O. 1950 for "Her Majesty the Queen".
[2]The words "Empress of India" rep. by the A.O. 1948.

SCHEDULE V—*concld.*

imprisonment), and to return that warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Police-officer in charge of the Police-station at

WHEREAS (*name, description and address*) did, on the day of 19 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of whereby the said bond has been forfeited; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorize and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees which you may find within the district of , and, if the said sum be not paid within , to sell the property so attached, or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at

WHEREAS (*name, description and address*) did, on the day of 19 , give security by bond in the sum of rupees for the good behaviour of (*name, etc., of the principal*) and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to [1][Government] [2]* * * the sum of rupees and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the Civil Jail for the period of (*term of imprisonment*);

This is to authorize and require you, the Superintendent (*or* Keeper), to receive the said (*name*) nto your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of 19 .

(*Seal*) (*Signature*)

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[1] Substituted by the A.O. 1950 for "Her Majesty the Queen".

[2] The words "Empress of India" rep. by the A. O. 1948.